



## SALINA CITY PLANNING COMMISSION

September 18, 2007  
4:00 P.M.

### AGENDA

City Commission Room 107  
City-County Building

- #1. Approval of the regular minutes of September 4, 2007 meeting.
- #2. Application #Z07-14, filed by D.L. Rogers Corp., requesting a change in zoning district classification from R-3 (Multi-Family Residential) district, C-3 (Shopping Center) district and PC-3 (Planned Shopping Center) district to PC-3 (Planned Shopping Center) district to allow expansion of a Sonic Drive-in restaurant site. The subject property is legally described as Lots 173 and 175 on Seventh Street and Lots 174 and 176 on Santa Fe in the Original Town of Salina, Kansas and addressed as 309 and 313 S. Seventh Street and 310 S. Santa Fe Avenue. Withdrawn by applicant.
- #3. Application #Z07-16, filed by Fred and Jackie Bailey, requesting a change in zoning district classification from C-1 (Restricted Business) district to C-2 (Neighborhood Shopping) district to allow a former dental office to be converted to a beauty shop. The subject property is described as Lot 1, Block 5 of the Replat of Faith Addition to the City of Salina, Saline County, Kansas and addressed as 723 S. Ohio Street.
- #4. Application #Z07-15, filed by the Salina City Planning Commission, requesting an amendment of Article VI, District Regulations, Division 13, C-3 Shopping Center District, Section 42-282(54) to allow drive-in restaurants as a permitted use.
- #5. Application #Z07-17, filed by the Salina City Planning Commission, requesting an amendment of Article VI, District Regulations, Division 2, A-1 (Agricultural) district, Section 42-113(16) by adding paintball ranges to the list of recreational facilities allowed as a conditional use.
- #6. Application #SUP07-4, filed by John Ratzlaff, requesting a Special Use Permit to allow an open air market in a C-5 (Service Commercial) district. The subject property is legally described as Lots 1-7, Block 1 in the Pleasant View Addition to the City of Salina, Saline County Kansas. The subject property is located at the northwest corner of 9<sup>th</sup> Street and Claflin Avenue and is addressed as 1500 S. 9<sup>th</sup> Street.
- #7. Continued discussion of off-premise advertising signs.
- #8. Other matters.

**NOTE:** The applicant or an appointed representative must be present in order for the Planning Commission to take action on an item.

**(Important Information on Reverse Side)**

## ADDRESSING THE PLANNING COMMISSION

The public is invited to speak to the Planning Commission during the public hearing portion of any item under discussion. Please raise your hand and after receiving recognition from the Chairman, approach the front, state your name, address and purpose for speaking.

Generally, the order of presentation after introduction of an item by the Chairman will be:

1. Determination if the applicant or his/her representative is present.
2. Brief presentation by the staff.
3. Comments by the applicant.
4. Comments by interested citizens.
5. Additional comments by the applicant and/or citizens, as appropriate.
6. Closing of public hearing by Chairman.
7. Planning Commission discussion and action.

Please note that, in many cases, (e.g., zoning amendments, planned development districts, final plats), the Planning Commission action represents a recommendation to be submitted to the City Commission. Those particular items on today's agenda are scheduled for consideration by the Salina City Commission on October 1, 2007. Should you wish to file a protest petition on any rezoning application, forms may be obtained from the City Clerk's Office, Room 206, City-County Building, 309-5720. In other cases, a decision of the Planning Commission is final, unless appealed to the City Commission. If you have any questions or concerns, please contact the City Planning Department, Room 201, City-County Building, 309-5720.

## MINUTES

SALINA CITY PLANNING COMMISSION  
CITY COMMISSION ROOM  
Tuesday, September 4, 2007

### MEMBERS

PRESENT: Appleby, Funk, Householter, Mikesell, Ritter, Schneider, Soderberg & Yarnevich

### MEMBERS

ABSENT: Bonilla-Baker

### STAFF

PRESENT: Andrew, Asche, Burger, Herrs and Place

Vice-Chairman Yarnevich called the meeting to order at 4:00 p.m. and asked if there were any changes to the agenda.

Mr. Andrew stated the items that you see on your printed agenda should be considered in the order in which they appear, except I understand that Mr. Funk has a suggestion or a motion regarding the Election of Officers.

MOTION: Mr. Funk stated Madam Chairman I would like to move Item #6 to this point because I have to leave at 5:15 p.m. and I would like to be a part of that. So I move that Item #6 be taken up at this point.

SECOND: Mr. Mikesell.

Mrs. Yarnevich stated it has been moved and seconded that Item #6 be moved ahead of the other items on the agenda. All those in favor say "aye", opposed same sign.

VOTE: Motion carried 6-0. (Ritter & Schneider had not arrived at meeting yet)

Item #6. Annual Business Meeting – Election of Officers.

Mr. Ritter joined the Commission at this time.

Mr. Andrew stated as far as our current status for the Election of Officers we are at our full compliment of nine members. Mr. Simpson served as Chairman and did not seek re-appointment for another three year term. All current members, except for Mr. Appleby and Mr. Householter who have not served a full one year on the Commission, would be eligible for the position of Chairman. Mrs. Yarnevich has served a term as Vice-Chairman and she would be eligible to be re-elected or be elected to the position of Chairman. Again, all members except for Mr. Appleby and Mr. Householter who have not yet served a full year, would be eligible for the Vice-Chairman position. Lacking a Chairman at this point in time I would accept nominations for the position of Chairman who would serve from this meeting until September of 2008.

MOTION: Mr. Funk stated I move that Margaret Yarnevich be elected Chairman and that a unanimous ballot be cast.

SECOND: Mrs. Soderberg.

Mr. Andrew stated it has been moved and seconded that the nomination and election of the Chairman be done by unanimous ballot and that Mrs. Yarnevich fill the position of Chairman. All those in favor say "aye", opposed same sign.

VOTE: Motion carried 7-0. (Schneider had not arrived at meeting yet)

Mr. Andrew stated we now have a Chairman and I will turn it over to Mrs. Yarnevich to accept nominees for the position of Vice-Chairman.

Mr. Schneider joined the Commission at this time.

Mrs. Yarnevich asked are there any nominees for the position of Vice-Chairman?

MOTION: Mrs. Soderberg stated I move we nominate Mr. Funk as Vice-Chairman.

SECOND: Mr. Mikesell.

Mrs. Yarnevich stated it has been moved and seconded that Mr. Funk be nominated for the position of Vice-Chairman. All those in favor say "aye", opposed same sign.

VOTE: Motion carried 8-0.

Mrs. Yarnevich asked do we also have some committee placements that we need to do?

Mr. Andrew stated we should go ahead and do that. For your information, Mr. Funk is currently your representative on the Board of Zoning Appeals that meets once a month on Thursdays and currently Mrs. Yarnevich is representing the Planning Commission on the Heritage Commission that meets about four times a year and also has special meetings. We could consider nominations or if we have Commissioners that are interested in volunteering that would also be acceptable.

Mrs. Yarnevich stated I would like to step down from the Heritage Commission with this new responsibility.

Mrs. Soderberg asked can new Commissioners like Mr. Appleby serve on one of those without a problem?

Mr. Andrew stated yes.

Mrs. Soderberg asked Mr. Appleby would you serve on the Board of Zoning Appeals? I know you have the experience professionally but I don't know if you feel like you've been here long enough?

Mr. Appleby stated yes, I would.

Mrs. Soderberg asked Mr. Funk is that alright with you?

Mr. Funk stated sure, I've been on it two years and it's a good experience.

Mrs. Soderberg asked do we do nominations for that too?

Mr. Andrew stated if Mr. Appleby wants to volunteer and we have no other volunteers then we certainly don't need to vote on that.

Mrs. Yarnevich stated so we have the Board of Zoning Appeals position filled. Is there anyone who would like be on the Heritage Commission?

Mrs. Soderberg stated I would be happy to do that unless there is somebody else who would like to.

Mrs. Yarnevich asked does that take care of that?

Mr. Andrew stated that takes care of that business and we will make sure that both Mr. Appleby and Mrs. Soderberg get added to the rosters of those boards and are kept informed of upcoming meeting dates and agendas.

Mrs. Yarnevich stated there is a Heritage Commission meeting tomorrow which I will be happy to attend.

Item #1. Approval of the minutes of the regular meeting held on August 21, 2007.

The minutes of the August 21, 2007 meeting were approved as presented.

Item #2. Application #P07-4, filed by Quail Meadows Estates, Inc., requesting approval of a preliminary plat of the Quail Meadows Estates Commercial Addition, a proposed two (2) lot subdivision of a 20 acre tract located on the west side of South Ohio Street north of Schilling Road. Continued from August 21, 2007.

Mr. Andrew presented the staff report with visual graphics which is contained in the case file. He asked Mr. Place for a status update on the South Ohio project and whether traffic signals were part of the project.

Mr. Place stated thank you Dean. As far as the South Ohio project goes we are in the process of right-of-way acquisition that is continuing for that project. Right now it is scheduled for a November bid letting. There are some timetables that we have to meet with this right-of-way in order to get that done. We're coming very close to the completion of the right-of-way, so I'm hopeful on that. As far as signals at Schilling, the project will not have a signal at Schilling and Ohio. It will just be a stop controlled intersection. If at some point in the future it's required we'll go through with some traffic safety study to figure out if it warrants a signal or not and that can be included at a later date.

Mr. Andrew stated I think we just wanted to clarify that the widening project does not include signals, it's a widening only.

Mr. Funk asked is that going to be a four-way stop or a two-way stop as it is now?

Mr. Place stated I believe it's going to be continued as it is now, as a two-way stop.

Mrs. Yarnevich asked will Ohio be three lanes with a left lane turning lane?

Mr. Place stated at the intersection it will be a five lane. Once you get out of the intersection of Schilling and Ohio it will be four lanes going north all the way to Magnolia where it currently widens to a five lane also.

Mr. Andrew stated the Ohio Street project is being funded as a combination State and local project. There is no special assessments or any fees being levied in association with that. We did have a brief discussion with the applicant about whether there were going to be any covenants or architectural controls or anything on the commercial portion of this and he indicated that there was nothing in the works on that at this time. I think the main reason that this didn't join up with the rezoning request at your last meeting was making sure we had a plan for the drainage discharge on the proposed commercial area. We think that has being resolved. Our

recommendation would be approval of the preliminary plat with the five conditions that you see indicated there on page 9. There were two words that were left out of Condition #1 which are probably important to Mr. Byquist and those are the words "except for". In other words Mr. Byquist will be responsible for the water, sewer, Joanie Lane construction and storm drainage but it should say "except for improvements associated with the widening of Ohio Street". Other than that I would be happy to stand for any questions.

Mr. Mikesell asked on Item #5 of your staff recommendation could you tell me what a section corner tie is?

Mr. Andrew stated a section corner tie is a report to the County Surveyor. This is a section corner right here, this is a section, this is a section and this is a section and they are tied together here. The County Surveyor wants a report that the corner ties are actually there, that the monumentation is there, and then they want all the corners of this subdivision tied back to that reference point. You can get by with not having that monumentation shown on the preliminary plat but on the final plat that needs to be done and addressed because the County Surveyor has to sign off on a final plat. So that's included in there just as more of a reminder to the surveyor and for the developer to make sure that they provide that.

Mrs. Soderberg asked with the widening of Ohio will there be sidewalks that will run the whole length of Ohio?

Mr. Andrew stated I will let Karlton address what's happening on the east side of Ohio and I can talk to the west side.

Mr. Place stated with the South Ohio project there will be a hike and bike path that goes from Schilling on the east side of Ohio up to a point where Jerry Ivey Park crosses Ohio and goes into the park there.

Mrs. Soderberg asked the bike path will go into the park?

Mr. Place stated correct.

Mr. Funk asked is that going to be concrete pavement?

Mr. Place stated yes.

Mr. Funk asked 12 ft. feet wide?

Mr. Place stated 10 ft.

Mrs. Yarnevich asked will there be a bike lane and a pedestrian lane?

Mr. Place stated no, to be considered a hike and bike path it needs to be 8-10 ft. wide but 10 ft. is what we put on there.

Mrs. Yarnevich asked it won't be marked the difference between where you bike and where you hike?

Mr. Place stated no.

Mr. Andrew stated it just allows for people who are on bicycles to pass on the left if there are people walking and pushing strollers it allows those people to be protected and room for faster vehicles or bicycles to pass on the left. As far as the west side, that is what I was kind of speaking to, it is a requirement that just as you would build sidewalks on Joanie Lane that if you develop this parcel you would have a sidewalk here, here, here and here and we will make sure that happens as part of any building permit. But there is nothing

as far as this section up here in the way of sidewalk construction that is part of the Ohio widening project that I'm aware of.

Mr. Householter asked are all the setbacks consistent with the widening of Ohio Street that we're looking at here?

Mr. Andrew stated yes, the plat that we have in front of you is based on a dedication of 50 ft. from the center line. So that will establish the new property line and the basis for the setbacks will be based on that dedication. Farther north where the houses are that line is not changing. The road is going to be shifted to the east.

Mr. Ritter asked drainage has always been a little tricky out there and you guys are sure that this will alleviate some of that problem or just takes care of what he is doing?

Mr. Andrew stated historically all this water came from the south to the north. What the Schilling Road ditch does is intercept the water that is coming from the south. What this further does is that in these streets where the houses are being built there is a pipeline that is right here that comes down so not only has the water from the south been intercepted but this naturally wants to go that way and it's being reversed through the storm pipelines to come back this way to the south. It will come back this way here and then what their plan is for the commercial area is to collect it all and build another street crossing under Schilling and pipe it all to the south. Naturally it doesn't want to go south but this is going to collect the runoff and artificially take it back to the ditch, except for these backyards and this little segment of street and Linda Lane here which will still flow back to the north. But the majority of the lot drainage will go south through pipelines into the ditch.

Mrs. Yarnevich asked are there any other questions of Dean and the staff? If not, would the applicant or representative care to address the Commission? Please state your name and address.

Stan Byquist, 2601 S. Ohio, stated I want to thank you on behalf of my partner and myself. My partner is Jim Caywood of San Diego, California. I would like to thank the City staff for putting this all together. They have done an excellent job. It's taken a bit of time but we're finally here. I guess lastly I would say that we're in agreement with all the specifications that Dean has gone through. I'd be happy to answer any of the questions that you may have on any of the matters. Thank you very much.

Mrs. Yarnevich asked is there anyone in the public that would like comment on this application? Seeing none we will bring it back to the Commission for discussion and action.

MOTION: Mr. Mikesell stated in Margaret's absence as the official motion maker, I make a motion that we approve Application #P07-4 with the five stipulations in the staff recommendation.

SECOND: Mr. Funk.

Mrs. Yarnevich stated it has been moved and seconded that we approve Application #P07-4 with the staff recommendations. Are there any other comments or questions? Seeing none we are ready for a vote. All those in favor say "aye", opposed same sign.

VOTE: Motion carried 8-0.

Item #3. Application #Z07-13, filed by C.R. Development, Inc., requesting a change in

zoning district classification from RS (Residential Suburban) to R-1 (Single-Family Residential) on a 9.82 acre tract of land located on the south side of East Cloud Street east of Parkwood Drive.

Mr. Andrew presented the staff report with visual graphics which is contained in the case file.

Mrs. Yarnevich asked in Option B on the water line it says that the easement was not wide enough for the water line, what would they do about that?

Mr. Andrew stated if the space is entirely open we can get by with that. But what often occurs is that if a house is set back 7 ½ ft. from the side property line there is no way to get 10 ft. there to get a full 20 ft. If there is space on the other side that is a possibility but generally in residential areas there is 15 ft. between the two houses and if you need 20 ft. to get clearance for equipment and all for utilities then 15 ft. is just not going to work. We might need additional information. This is the spot right here where they were talking about coming through and it would depend on how closely these are together whether in fact you could get the 20 ft. there. But that's the location there where they were talking about looping. The other option is just to bring a line down and tie it right here into the line in Red Fox Lane.

Mrs. Yarnevich asked that was Option C?

Mr. Andrew stated that was Option C.

Mrs. Yarnevich asked are there any other questions of Dean or the staff? Would the applicant or representative care to address the Commission? Please state your name and address.

Greg Adams, Campbell & Johnson Engineers, 113 W. 7<sup>th</sup> Street, Concordia, Kansas, stated we're working with the applicants and speaking on their behalf. Again, we appreciate the time the staff has put into this and it has been a challenging piece and we think we have some options that we can work through and are pretty excited about getting it developed and getting some houses built on it. Like Dean said, we are working through some options. We're talking with the Homeowner's Association of Parkwood Village this month about the possibility of acquiring an easement for that water line loop. It will be developing but as the recommendations state it will all be cleared up before the final plat. We will get all the engineering decisions made and make sure they fit within their right-of-ways and the easements. But we think it can work.

Mrs. Soderberg asked what will be the range of values of homes?

Mr. Adams stated I think some of that might have to be referred to the applicants. That may depend on the design for the basements, whether they go slab on grade or if they can put basements under it. That is still under investigation. Last I heard I thought that if they go slab on grade it will be around \$150,000 and maybe up from there. If they do basements it will be more than that.

Mrs. Soderberg asked is there a plan to have some kind of covenants or design requirements?

Mr. Adams stated they don't plan on having a homeowner's association but Mr. Piercy is a builder and they are going to be heavily involved in the design of the houses. I don't know if there will be full architectural control but they will have say on what types of houses get built in there.



Mrs. Soderberg asked do they plan to have a combination of spec homes, how are they going to develop this?

Mr. Adams stated I think that is the idea is to build a few of them themselves and sell lots as well. Thank you.

Mrs. Yarnevich asked is there anyone in the public who would like to address the Commission on this application?

Shirley Drawbaugh, 1833 Parkwood, stated I am rather interested in where you are going to run that 20 ft. easement for the water. Because the way you are talking it sounds like it is going to go right by my house. Let me show you. **(Mr. Andrew and Shirley walked up to screen to look at map)** Could you tell me about how big these lots are going to be for these 27 houses?

Mr. Adams asked width wise or square footage?

Mrs. Drawbaugh asked the lot size, 200 ft. x 50 ft.?

Mr. Adams stated probably in the neighborhood of 120 ft. x 80 ft.

Mrs. Drawbaugh stated I am very interested in this because I have been very pleased with where I have been living and everyone seems to keep their property up. This piece here is going right behind my house and I'm just wondering how many houses will be put in that area?

Mr. Andrew stated as I read this, this would be your lot here and this is the plan for the lot directly behind it **(stepped away from microphone up to map)**. Looks like there would be two lots behind you. What their thought is I believe is that the easement width is pretty well fixed on your side of the line because of how close your house is to the property line. So if they are able to get the space it is going to come from the common area for the townhome portion and there is an easement on the side of your lot and it is not wide enough so they will have to get permission from the homeowner's association in the townhome area to the south to make that wide enough to be feasible. Unless you say so they won't be able to encroach any more on your property.

Mrs. Drawbaugh stated thank you.

Mrs. Yarnevich asked is there anyone else who would care to speak to the Commission on this matter. Seeing none I will bring it back to the Commission for discussion and action.

MOTION: Mr. Funk stated it seems like a good idea to fill in some of these vacant properties around the city before we go out and do fresh, virgin agricultural land. I move we approve Application #Z07-13 to change the zoning in this district from RS (Residential Suburban) to R-1 (Single-Family Residential).

SECOND: Mr. Householter.

Mrs. Yarnevich asked that would be subject to satisfactory platting?

Mr. Funk stated yes.

Mrs. Yarnevich stated it has been moved and seconded that we approve Application #Z07-13. Any further questions or comments? Seeing none we are ready for a vote. All those in favor say "aye", opposed same sign.

VOTE: Motion carried 8-0.

Item #4. Application #P07-6, filed by C.R. Development, Inc., requesting approval of a preliminary plat of the Red Fox Addition, a proposed 27 lot subdivision of a 9.82 acre tract of land located on the south side of East Cloud Street east of Parkwood Drive.

Mr. Andrew presented the staff report with visual graphics which is contained in the case file.

Mrs. Yarnevich asked Dean your report included all of that?

Mr. Andrew stated yes and those conditions that are recommended on page 4 and 5 I believe of the report relate to the preliminary plat.

Mrs. Yarnevich asked are there any questions of staff regarding the preliminary plat?

Mrs. Soderberg asked without curb and gutter on Cloud and then adding curb and gutter to this area which would be new, does that affect the drainage in any way?

Mr. Andrew stated the plan is to take anything that comes off these lots or from here and get it to the street which will have curb and gutter and take it down here and then convey it over to the channel. There shouldn't be any or very minimal, I'll let Mr. Adams be more specific, but there should be very minimal runoff directed to Cloud Street. It should all be directed south. The street will be graded to drain south to the southeast corner.

Mr. Funk asked are there any plans in the foreseeable future to do something with Cloud in that area?

Mr. Andrew stated it is on an identified but unfunded list. We did note in there that at one time there were thoughts about building a bridge across the river on Cloud Street and making it a major street and that idea has been dropped. It's not a real high traffic volume street and it's not in terrible condition, it's not falling apart, it's just not up to a City standard. There is no timetable for doing that.

Mrs. Drawbaugh asked how would that affect me?

Mrs. Yarnevich stated would you please stand up and come to the podium.

Mrs. Drawbaugh asked how would that affect the dike if you put a bridge over that river?

Mr. Andrew stated the idea of doing a bridge has been dropped. It was an idea at one time.

Mrs. Yarnevich stated the other side of where the bridge would have been has now been developed and there will be no bridge. Are there any other questions of staff? Would the applicant care to address the Commission again? Are there any questions of the applicant? Seeing none we will bring it back to the Commission for discussion and action.

MOTION: Mr. Ritter stated I move we approve Application #P07-6 with the six recommendations by staff.

SECOND: Mr. Funk.

Mrs. Yarnevich stated it has been moved and seconded that we approve Application #P07-6 with the six staff recommendations. Are there any further questions or comments? Seeing none we are ready for a vote. All those in favor say "aye", opposed same sign.

VOTE: Motion carried 8-0.

Item #5. Application #CU07-3, filed by Erin Kearns, requesting approval of a Conditional Use Permit to establish and operate a group care home in an R-1 (Single-Family Residential) district. The subject property is legally described as Lot 34 of the Sunset Village Addition to the City of Salina, Saline County, Kansas also known as 1020 Vassar Drive.

Mr. Andrew stated Mr. Herrs will present this staff report.

Mr. Herrs presented the staff report with visual graphics which is contained in the case file.

Mrs. Yarnevich asked are there any questions of staff?

Mr. Householter asked did you say that the Conditional Use Permit would follow the house that if they were to move that that would stay with the house?

Mr. Herrs stated the next owner could operate a day care facility.

Mr. Householter asked is there any way to change that to where that wouldn't carry through? I think each application should probably be based on the new owner.

Mr. Herrs stated I think the opinion is that not only is the owner important but whether or not the site meets the criteria. If the site meets the criteria there are no other issues.

Mr. Householter stated okay.

Mr. Andrew stated your role today would be to say that this is a suitable location for that type of day care. If you're saying the site is suitable it should be suitable for another user as well.

Mrs. Soderberg asked the licensing would not go with the property?

Mr. Andrew stated the licensing does not transfer but as far as the use, if you are saying this seems to be a suitable location to provide day care then that's the finding that you're making.

Mrs. Yarnevich asked we are only increasing this by two children and we are providing another care provider? So instead of having one person for ten children we have two people for twelve?

Mr. Andrew stated the part that is confusing about the ten is that the ten number includes resident children that are members of the family. It doesn't mean you can have ten off-site children for one day care provider. The ten number means you can have up to ten children counting your own.

Mrs. Yarnevich asked what about the twelve number?

Mr. Andrew stated the twelve number is the same. The other part that doesn't come in to this is that it depends on whether you have infants or toddlers or whatever the age group is. If you have infants and toddlers you can have fewer children because the ratio is lower than it is for kindergarten or above.

Mrs. Yarnevich asked are there any other questions of staff? Is there anyone that would like to address the Commission on this issue? Please state your name and address.

Erin Kearn, 1020 Vassar, stated first off as he was explaining, the more younger children I have the less children I can have overall. I do have one child of my own so he does count towards my total count of children I can have at one time. I was presented with a letter from the neighbors that was sent to you. Looking through here at a few things I just wanted to address some that were on here. They did bring up as far as putting in a privacy fence. That is something that we are looking in to. We're a young couple and just purchasing our house would have been two years ago. That is something that is in the works and it does take extra money and that is part of building up what I am doing as my job to bring in the extra income to be able to make those improvements. I do totally respect how they feel. In regards to that I have spoken with how they have on here 10-12 children they feel is too many for my backyard. As he did state my lot size and playground size meet all the requirements that I need. I did speak with Cathy at the Health Department who does my yearly inspections as far as I have to have my children outside an hour a day. As far as splitting them up, I am doing six out at a time that way it doesn't interfere as much. The only thing I'm running into is that I can have up to ten children right now by myself, my biggest thing is that I can have another adult in my home to help me to be able to keep the babies inside because they need to be fed and allow the employee or helper to take the other children outside to play. That's really the only difference. They did state in here as far as my dogs. My dogs can be kenneled in their kennel. It's a 10 ft. x 10 ft. kennel, it is not a run. It shows on one of the pictures that they have up there. The one that is actually like the map picture. As far as where it sits it can be moved but they have for their self all of the play area. I built in a huge sandbox for them which is plenty to me which seems to accommodate them with plenty of room and space to play. I have been doing my day care for almost two years now and I've never had a problem with either one of my animals. The big one is still a puppy and he is normally kenneled when the kids are out. Because he is still a puppy he likes to jump. Other than that I haven't ran into any problems whatsoever with them. That is really all that I have. I just feel that I've met the requirements that I was asked. When they did come out and do my inspection there were a couple things that the Fire Inspector asked me to do. I have either gone out and purchased those to make those changes, which by the Health Department I'm already meeting code so those are just changes I have to do for the group day care, specific things like the carpet being taken out on the stairs to the staircase downstairs. They came out and inspected last week and that was done over the weekend. I'm just trying to meet the requirements even though my lot size and all that meet all the requirements. I am trying my best to meet all the requirements that are needed. I just wanted to address more than anything that I do respect that I have back neighbors. As far as when I'm going to be able to put in a privacy fence that just comes down to when I'm able to afford that, because that is a lot of money. That is all that I have.

Mrs. Yarnevich asked are there any questions of the applicant?

Mrs. Soderberg asked how many children do you currently watch?

Mrs. Kearn stated I can have up to ten but I currently have eight because one of them that I do have is a baby so she counts as two.

Mrs. Yarnevich asked the animal issue, do the parents request that you have your dogs kenneled?

Mrs. Kearn stated no, all my parents know before I even interview them that I have two dogs. My little dog is a miniature pincher. Before I even started this I had him and we went through insurance to make sure that is all covered. That is why I have insurance. I have to carry shot records and all

that on my dogs. I've never had a problem with them before as far as violence goes.

Mrs. Yarnevich asked Dean, is that an issue that we concern ourselves with whether or not she has dogs and whether or not she has a privacy fence?

Mr. Andrew stated I think the privacy fence is relevant from an impact standpoint, that's really your role. The Health Department governs the question about dogs and it's more of a provider and safe environment issue. I would say from my experience in looking at these cases it seems to be much more common for day care providers to have chain link fences than privacy fences. It's not a requirement. Certainly this is a conditional use. It is something that is discretionary with you but our experience is that it is more common for the play areas to be enclosed by chain link than by privacy fences. It is something that you have the discretion to require but that is over and above what the Health Department requires which is a 4 ft. chain link fence.

Mrs. Yarnevich asked are there any other questions of Mrs. Kearn?

Mr. Funk asked you said something about your children have to be out one hour a day, is that a day or a half day?

Mrs. Kearn stated an hour a day I have to have all the children outside, whether it be all at once. That's why I checked with Cathy from the Health Department because I did have a neighbor bring up the issue as far as noise. You can only keep children so quiet especially outside. So I did ask my inspector what I could do and she did bring up the option as far as splitting them up, taking out half at a time. Not all my children show up at the same time. I have ones that go to school and show up after school, parents work at different times, so we try to work that out so it doesn't disturb my neighbors so much.

Mr. Funk asked do you do this one hour and one hour or two half hours?

Mrs. Kearn stated it is depending on the weather. It doesn't have to be all at once. If it's 100 degrees outside then I'll probably do a little here and there.

Mrs. Yarnevich stated it would seem to me that there would be a less impact on the neighborhood if they were all out there for thirty minutes than if you would have six of them out there for thirty minutes and then six of them for another thirty minutes.

Mrs. Kearn stated that is how I felt.

Mrs. Yarnevich stated this is happy noise, this is children noise.

Mrs. Kearn stated I know but that is their concern and I want to respect that. I'm trying to expand my business, this is my living and improving my home so I want the support of them. I did note that one concern was they didn't feel the backyard was big enough. After doing the inspections it came up that I was above all minimum requirements. So I'm trying to work with them as far as trying to do my best to figure out a way for everyone to get along. I don't want to interfere with them and I would like to work a way out with them so I'm not disturbing them.

Mrs. Yarnevich asked are there any other questions of Mrs. Kearn?

Mrs. Kearn stated thank you.

Mrs. Yarnevich asked is there anyone else who would like to address the Commission? Please state your name and address.

Allis Vogelsberg, 1103 Windsor Drive, stated I am one of the back yard neighbors. Our yards join and there is no buffer in between except for the chain link fence. That is my house right back there behind them. The distance between my patio and that yard is very small and what we are mostly concerned with are what are the ages of these kids? When you get into a group day care what are the ages of the children they can have? These little kids play and make noise and that is kind of understandable but even when they're playing and making noise if I want to go out and sit on my deck forget it and I have to go back in my house. It is encroachment on me and the neighbors. These kids are great kids and we love you as neighbors and we welcome you in the neighborhood. But when they started the day care we weren't asked anything about that, we weren't even considered on what our opinions were on it. There was a letter submitted, did you all get a copy of that? There were four of us that signed it but there are ones on either side that didn't sign it who were all concerned and I think some of them might have even talked to you about it. Another thing that bothers me, if this is approved and they decide not to do it or move does that conditional permit follow the land?

Mr. Householter stated that was my question too. I think maybe I misstated, my concern is that while they're operating it, their yard is laid out this way and they're doing all the things for that if the next owner moves in are we going to re-inspect to make sure they're meeting our codes. I know the Health Inspector is going to go out there but are we going look if they decide to do something different structurally. Does the Health Department or Fire Department look at that? I guess that's my only concern is if somebody comes back there and does some sort of structural change. I know there is some minimums but I know the whole idea of us meeting here is just to make sure we agree those minimums are going to be enough to let them have this conditional permit. I just think if they decide to move in five years and it's down the road and the next guy comes in and maybe he has modified it and maybe done some things that maybe we wouldn't agree with at this point, I just have a hard time carrying through any conditional permit to the next owner. Just because it's okay now doesn't mean it's going to be okay in five years. I think we ought to look at each incident as a new incident. But I'm new to this game and maybe that's too much paperwork.

(Mr. Funk left the meeting at this time).

Mrs. Vogelsberg stated something else that I wouldn't want to get started is a precedent set. This is a well established older neighborhood, people have owned their homes since they were built and if you get this kind of thing going us as homeowner's have concerns and considerations too. That is all I have to say. Thank you.

Mrs. Yarnevich stated thank you. Is there anyone else who would like to address the Commission?

Mrs. Kearn stated I do agree completely. I didn't know maybe if there was some type of Conditional Use Permit that has an expiration where it has to be re-inspected? Because personally I don't think it should be held against me because that's how the rules are made that the next person can do the exact same thing without being inspected like I have gone through. I understand that completely but at the same time I don't think it should be held against me for that being a rule. So I didn't know if there was some type of expiration on it or re-evaluation that you guys know of?

Mr. Mikesell asked from a practical standpoint Dean, if let's say in fact that they decided to build a larger deck and enclose that, would that not require a building permit and at that point would that permit that we're possibly going to grant come up and could staff say that that would encroach on the

other space too much and not allow enough backyard space for the day care?

Mr. Andrew stated that would still be a judgment for the Health Department that would inspect annually. You probably have within your authority to say that this Conditional Use Permit will expire upon sale of the property or if it ceases to be used as a day care for so much period of time. It's just that nobody is going to tell us that the property has been sold or that they've stopped doing day care there. So from a monitoring standpoint it is not easy to do. The general rule is that if you're saying it's suitable for one you are saying it's suitable for another. Do you have the discretion to add a third condition saying that it will expire if they ever sell the property? You can do that. But nobody is going to tell us that they've sold the property. Then we would have to go out and discover that somebody else was doing it.

Mrs. Yarnevich asked they have to be licensed and they have to go through all the applications and inspections?

Mr. Andrew stated right.

Mr. Householter stated it sound to me like there is at least some safe guards.

Mrs. Yarnevich stated the point is the house is suitable and the lot is suitable.

Mr. Andrew stated that there is parking available.

Mrs. Yarnevich stated that there is parking available.

Mr. Andrew stated there is a safe place to drop off children. That's what you're being asked to look at, not so much the provider. That is really the Health Department's role.

Mr. Householter stated again, not so much the provider just the change in structure was more my concern. I could understand the monitoring of that might be a little difficult considering this is one of how many in Salina. We may not want to start that. These meetings might turn into six hour meetings.

Mrs. Soderberg stated you might answer her question about the ages of the children that she had.

Mrs. Kearn stated the ages of the children is primarily what I accept. That is my choice. I can have from newborn to I believe fourteen.

Mr. Herrs stated sixteen, it's actually a misprint in here.

Mrs. Kearn stated my oldest right now is six. She just started kindergarten, so that is where my half days are coming in, kids are coming in and out right now. Six is the oldest I have. My youngest just turned one like three months ago and the rest are in between there.

Mrs. Yarnevich asked this actually only adds two children to the mix but it does help you by adding another provider?

Mrs. Kearn stated correct. I can have another adult to assist me.

Mrs. Yarnevich asked that way you could separate the kids and have one group outside for awhile and then the other group?

Mrs. Kearn stated I am more than willing to do that.

Mr. Householter stated that might help cut down on this noise level by not just letting twelve kids run around.

Mrs. Kearn stated the only thing is I don't know how much it is going to cut down. Even splitting them up that's as many kids as I have right now out there. Like I said, I try my best but that's where kids are supposed to be able to be loud. But I try and keep it to a minimum for them.

Mr. Ritter stated one of the big concerns is the privacy fence. But have you talked to your neighbors and maybe now might be the time? I only see one fence so maybe if they would want to split the cost? It's 69 ft. and if you divide that by two people.

Mrs. Vogelsberg stated come on now, let's not start that.

Mrs. Kearn stated my husband and I have definitely looked into that option. It's just a money factor right now.

Mrs. Vogelsberg stated personally I don't like privacy fences. They do cut back the noise some. There is a privacy fence you can see along side her fence and that is where all the weeds and stuff grow. There is one a little bit on my property for the people next door and of course I have a chain link fence all around and then that privacy fence comes in. You know where the weeds are, and guess who takes care of them? But as far as a privacy fence I don't know if that would really benefit us that much or not. Besides, I like to look over there and see what's going on.

Mrs. Soderberg stated you never know, it could be a family with six or eight kids that move in there.

Mr. Householter stated that is kind of what I was thinking too.

MOTION: Mr. Householter stated it sure seems as though the minimal requirements that the staff has outlined are being met and I can't see any reason to not approve it. I move we approve Application #CU07-3 to establish and operate a group day care home at 1020 Vassar Drive subject to the staff recommendations.

SECOND: Mr. Funk.

Mrs. Yarnevich stated it has been moved and seconded that we approve Application #CU07-3 to allow a group day care to be established and operate at 1020 Vassar Drive subject to the staff recommendations. Are there any further questions or comments? Seeing none we are ready for a vote. All those in favor say "aye", opposed same sign.

VOTE: Motion carried 7-0.

Mrs. Soderberg stated it's nice to see when neighbors are trying to get along. That is refreshing.

Item #7. Update on Stormwater Ordinance Committee.

Mr. Andrew stated the list that you see there is the group that agreed to serve and were appointed by the Mayor and City Commission to serve as the Advisory Committee or Ad Hoc Committee to advise on the creation of and recommendation of the content of the Stormwater Pollution Control Ordinances that were discussed and it appears that the first meeting of that group will be next Tuesday at 7:00 a.m. based on a consensus of the group and there will be notebooks put together for each of those members that will have some background information and outlines. We will meet as often as



needed to allow those members to understand that better and feel comfortable with making recommendations on the final content of those ordinances. So that recommendation has been acted on and those are the appointed members.

Mr. Schneider asked who from the City will be on that?

Mr. Andrew asked as far as the staffing goes?

Mr. Schneider stated yes.

Mr. Andrew stated as far as the staffing goes, it will be the Deputy City Manager, Mike Schrage, myself, Civil Engineer, Wayne Nelson from the Engineering Department. There could be others but those would be the primary staff members.

Mrs. Soderberg stated it looks like a good committee.

Mrs. Yarnevich asked are there any questions of Dean or the staff?

Item #8. Update on Comprehensive Plan.

Mr. Andrew stated what you have in front of you shows that we are under contract with Gould Evans and Associates out of Kansas City, Missouri and attached to that is a scope of services and kind of an outline of what is going to be taking place. The next steps will be the formation of a Project Advisory Committee which will be citizens from the community, a technical committee which will probably primarily be City staff that will be there to provide technical information to the consultants and then in addition to the Advisory Committee there will be some specific focus groups relating to economic development, connectivity, housing and parks and recreation as well as some community open houses. One important part of this will also be a community survey that will be put together and sent out to residents in the community. We had kind of a general citizens survey that was done a couple of years ago, this will have much more specific questions about community appearance and a number of other things and try to illicit response from that. We're looking at before Thanksgiving having some of the public meetings, focus groups and some of the other initial public meetings but right now we're primarily in the information gathering stage to collect prior plans and other documents and other information to give to the consultants so they can start getting a good background picture of the community and putting together a public participation plan. There's rough schedules of things in the order in which they would occur. I wouldn't say there is a definite exact calendar but we are in the project set up stage and will be until we start having some public meetings to develop a community vision. That's kind of an outline of things on how they would occur and we'll be looking at getting members for those various groups finalized in the next couple of weeks and getting data to the consultants.

Mr. Mikesell asked not holding you to any exact numbers or anything, are we talking about a two year or a year process?

Mr. Andrew stated I think you're looking at twelve months maybe plus to get to the final draft and adoption. That is the goal anyway to fit it within a twelve month period.

Mrs. Soderberg stated it seems unusual to me that City staff would appoint a citizen committee.

Mr. Andrew stated we're not.

Mrs. Soderberg stated it just says "City staff responsibility appoint advisory committee".

Mr. Andrew stated that is not actually going to occur here. That is their experience of working in other communities. But that is not going to occur. It is most likely going to be the Mayor or the City Commission that will do that. Part of what we're working on is just the organization of that, how many members and how will it be supported. Obviously City staff's job is to make sure that Advisory Committee members are kept informed and know what the schedule is and get the materials and all that. But City staff is not going to appoint the committee.

Mrs. Soderberg asked where does it make sense that the Planning Commission comes into that part of the process, to have a couple of members on that Citizen Advisory Committee?

Mr. Andrew stated certainly a member or members on the Citizen Advisory Committee and also being kept aware and hopefully being part of topical focus groups that are of particular interest to you. So I'd like to think that if we had four focus groups focusing on economic development, connectivity, housing and parks that there might be particular areas of interest that the Commissioners would have and that you would want to be part of those focus groups based on your personal interest. So I would see that and certainly having one or two Planning Commissioners on the Advisory Committee as well.

Mrs. Yarnevich asked are there any other questions?

Item #9. Other matters.

Mr. Andrew stated we don't have any other matters for you other than we do have items scheduled for the 18<sup>th</sup> and we will meet then. We have officers and we have representatives so we'll be on a two week schedule for the foreseeable future and what we will do though is make sure that the Planning Commission is kept in the loop on all aspects of the Comprehensive Plan as it develops, who is on the Advisory Committee, what the focus group schedule will be, getting you introduced to the consultants from Gould Evans.

Mrs. Soderberg asked can we build in for the next meeting a little time on the discussion on the signs?

Mr. Andrew stated yes, we can do that.

Mr. Householter asked is this our wayfinding signs that we're getting in town?

Mrs. Soderberg stated no, it's electronic billboards and LED moveable signage.

Mr. Householter asked how about large for sale signs that set three months after houses get sold, can we address that?

Mr. Andrew stated the maximum size of a residential for sale sign is 8 square feet and we have a couple out there that are a little larger than that. But the main focus of this discussion is that we did learn that this issue is being studied in Omaha, Nebraska and Kearney, Nebraska and we're getting some information from them about items they are discussing there. So we will have some additional background information for you.

Mrs. Soderberg stated okay, good.

Mrs. Yarnevich asked are there any further questions or comments? Seeing none we are adjourned.

Meeting adjourned at 5:32 p.m.

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Dean Andrew, Secretary

ATTEST: \_\_\_\_\_



|                       |                    |                 |                   |
|-----------------------|--------------------|-----------------|-------------------|
| Publication Date      | August 28, 2007    | Application No. | #Z07-14           |
| Hearing Date          | September 18, 2007 | Date Filed      | August 16, 2007   |
| Vicinity Map Attached | KG                 | Filing Fee      | \$270.00          |
| Ownership Certificate | KG                 | Receipt No.     | 94974 8/16/07 & W |

### APPLICATION FOR AMENDMENT TO THE DISTRICT ZONING MAP

- Applicant's Name D.L. Rogers Corp
  - Applicant's Address 5013 DAVIS BLVD North Richland Hills TX 76180
  - Telephone (daytime) 785-822-8941 E-mail Dlw.powell-2000@yahoo.com
  - Owner's Address 5013 DAVIS BLVD North Richland Hills TX 76180
  - Legal Description of Property to be rezoned (attach additional sheet if necessary) Lots 173 & 175 on 7<sup>th</sup> Street and  
Lots 174 & 176 on Santa Fe, Original Town of Salina, Saline County, Kansas
  - Approximate Street Address 309 & 313 S. 7<sup>th</sup> Street; 310 S. Santa Fe Avenue
  - Area of Property (sq. ft. and/or acres) (24,000 sq. ft. - 0.55 acre)
  - Present Zoning C-3, PC-3 & R-3 Use Residential Home, Parking Lot and Drive-In Restaurant
  - Requested Zoning PC-3 Use Drive-In Restaurant
  - Are there any covenants of record which prohibit the proposed development? YES ☐ (attach copy) NO ☒
  - List reasons for this request (attach additional sheets if necessary): To Remodel & consolidate all lots  
To Single zoning lots = FOR EXPANSION
  - Provide additional information showing the effect the request will have on present and future traffic flow, schools, utilities, emergency services, surrounding properties, etc. (Attach additional sheets if necessary): would not increase  
TRAFFIC but would help with TRAFFIC FLOW
  - Explain how off-street parking will be provided for this requested use: Employee parking in back of  
Property & also Masonic Temple allows our employees to park on  
their lot
  - List exhibits or plans submitted: PRELIMINARY SITE PLAN
- Applicant(s) Signature [Signature] Owner(s) Signature \_\_\_\_\_  
Superior P. D.L. Rogers Corp
- Date: 8-16-07 Date: \_\_\_\_\_

If the applicant is to be represented by legal counsel or an authorized agent, please complete the following in order that correspondence and communications pertaining to this application may be forwarded to the authorized individual.

Name of representative: \_\_\_\_\_

Complete Mailing Address, including zip code \_\_\_\_\_

Telephone (Business): \_\_\_\_\_ E-mail address: \_\_\_\_\_

**Andrew, Dean**

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**From:** Privett, Basil [bprivett@dlrogers.com]  
**Sent:** Wednesday, September 12, 2007 10:50 AM  
**To:** Burger, John  
**Cc:** dwpowell\_2000@yahoo.com; Andrew, Dean; Privett, Basil; Junkin, James  
**Subject:** RE: Rezoning Application

Mr. Burger,

Please let this email serve as official notice that DL Rogers Corp would like to withdraw our application for rezoning of the subject property located at 310 S. Santa Fe at this time. We are working through issues with the additional property we are acquiring. When we are ready to resubmit, I will be in touch with you. Thank you for your assistance in this matter. Please let me know if you need anything further from me at this time.

Basil Privett  
Director of Real Estate & Construction  
D. L. Rogers Companies  
5013 Davis Blvd  
North Richland Hills, TX 76180  
wk# 817-428-2077 x 109  
fax# 817-428-7254  
bprivett@dlrogers.com

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STAFF REPORT  
SALINA CITY PLANNING COMMISSION


Case: #Z07-15

Hearing Date: September 18, 2007

**Agenda Item #2**

In order to have legal standing to apply for a change in zoning on a piece of property the applicant must either be the record owner of the property, have a valid contract or option to purchase the property contingent on rezoning or the owner must sign the rezoning application. In this case, D.L. Roger Corp. informed Planning staff that they had a contract to purchase 309 S. 7<sup>th</sup> Street and wanted to pursue the rezoning of the property so it could be incorporated into their restaurant site. The current record owners of 309 S. 7<sup>th</sup> Street say they have not agreed to a sale of their property.

Because staff does not have a copy of a valid sales contract and the current owner is contesting D.L. Rogers Corp's standing to file an application for a zoning change, staff considers this application to be withdrawn until such time as D.L. Rogers Corp. is in a position to apply for a zoning change. Because the application has been withdrawn no Commission action is required, however, because a September 18, 2007 public hearing was advertised this item was left on the agenda in case any interested parties who received notice appear at the meeting and want to comment on the application.

|   |                       |                    |                 |                 |
|---|-----------------------|--------------------|-----------------|-----------------|
| <br>City of<br><b>Salina</b><br>Planning &<br>Community<br>Development | Publication Date      | August 28, 2007    | Application No. | Z07-16          |
|   | Hearing Date          | September 18, 2007 | Date Filed      | August 17, 2007 |
|   | Vicinity Map Attached |                    | Filing Fee      | \$270.00        |
|   | Ownership Certificate |                    | Receipt No.     | 9515/Tm 8/27/07 |

## APPLICATION FOR AMENDMENT TO THE DISTRICT ZONING MAP

- Applicant's Name JACKIE & FRED BAILEY
  - Applicant's Address 801 NW 7TH, ABILENE KS 67410
  - Telephone (daytime) 785.263.2195 x11 E-mail JACKIE@BAILEYTRUCKLINE.COM
  - Owner's Address \_\_\_\_\_
  - Legal Description of Property to be rezoned (attach additional sheet if necessary)  
LOT 1, BLOCK 5, FAITH ADDITION, SALINA KS
  - Approximate Street Address 725 S. OHIO
  - Area of Property (sq. ft. and/or acres) 85' x 127' = 10,795 SQ. FT. OR .25 ACRE
  - Present Zoning C1 Use FORMER DENTIST OFFICE
  - Requested Zoning C2 Use BEAUTY SHOP
  - Are there any covenants of record which prohibit the proposed development? YES ☐ (attach copy) NO ☒
  - List reasons for this request (attach additional sheets if necessary): CHANGE OCCUPANT USE. CHANGE C1 TO C2 TO PERMIT USE OF BEAUTY SHOP.
  - Provide additional information showing the effect the request will have on present and future traffic flow, schools, utilities, emergency services, surrounding properties, etc. (Attach additional sheets if necessary):  
NO IMPACT
  - Explain how off-street parking will be provided for this requested use:  
SEE SITE PLAN & LETTER OF AGREEMENT WITH LOT 13.
  - List exhibits or plans submitted: COVER LETTER, ARCHITECTURAL FLOOR PLAN, SCOPE OF WORK, LETTER OF AGREEMENT
- Applicant(s) Signature Jacquelyn Bailey Owner(s) Signature Fred Bailey
- Date: 8-17-07 Date: 8/17/07

If the applicant is to be represented by legal counsel or an authorized agent, please complete the following in order that correspondence and communications pertaining to this application may be forwarded to the authorized individual.

Name of representative: CHRISTIE CARL, AIA C. CARL ARCHITECTURE

Complete Mailing Address, including zip code PO BOX 6, ABILENE, KS 67410

Telephone (Business): 785.263.2304 E-mail address: CCARL@KANES.NET

## STAFF REPORT SALINA CITY PLANNING COMMISSION

Case #Z07-16

Hearing Date: September 18, 2007

Request: Rezoning of property from C-1 (Restricted Business) District to C-2 (Neighborhood Shopping) District.

Location: Southeast corner of Faith Drive and Ohio Street and addressed as 723 S. Ohio Street.

Legal Description: Lot 1, Block 5 of the Replat of Faith Addition, an Addition to the City of Salina, Saline County, Kansas (aka 723 S. Ohio).

Owner/Applicant: Jackie and Fred Bailey

Size of Land Area: Approximately 10,795 sq. ft.

Existing Zoning/Land Use: C-1/ Vacant dental office

Surrounding Zoning/Land Use:

|       |  |
|-------|--|
| North | C-5 / McDonald's restaurant              |
| South | R-1/ Single-family dwelling              |
| East  | C-1 / Chiropractic office                |
| West  | R-2 / Ohio Street, multi-family dwelling |

Proposed Use: Beauty Shop

Comprehensive Plan: Shown as Office

### Background

The property that is the subject of this application is part of the Replat of Faith Addition which dates back to 1961. The existing building was originally constructed as a duplex at the southeast corner of Faith Drive and Ohio Street in 1962. Two (2) off-street parking spaces were required to serve the duplex. When the duplex was constructed the property was zoned "B" (Two-Family Dwelling House) district. After the duplex was completed the property was rezoned from "B" (Two-Family Dwelling House) district to "DD" (Office) district. Dr. Frank Ferson bought the property and converted the duplex into a dentist office without obtaining any building permits meaning there was no review of off-street parking or other items associated with a conversion from residential to commercial use. This property has remained a dental office since that time. In 1977, the City of Salina implemented a comprehensive rezoning plan and this property was designated C-1 (Restricted Business) district reflecting its use as a dental office. Dr. Frank Ferson owned the property until June 21, 2006, when he sold the property to Dr. Randall Jasperson. A little over a year after buying the property, Dr. Jasperson sold the



property to Fred and Jackie Bailey on July 12, 2007. The Baileys purchased the property with the thought of converting it from an office into a beauty shop. Although Mrs. Bailey states that the realtor that sold her the building told her it was properly zoned for a beauty shop, beauty shops are not a permitted use in the C-1 (Restricted Business) district. After staff informed the Baileys that the property was not zoned for a beauty shop this application was filed to change the zoning classification of the property from C-1 (Restricted Business) to C-2 (Neighborhood Shopping) district in order to allow such a conversion to take place.

#### Nature of Current Request

The purchasers of this property Fred and Jackie Bailey are proposing to lease it to Toyia Bailey for the operation of a beauty shop. Staff discussed the option of applying for Planned C-2 zoning with a narrow focus (beauty shops) which would allow the Planning Commission to consider this rezoning request in accordance with a specific plan for the property. However, the applicants chose to apply for C-2 zoning which means that staff and the Commission must review their request from the perspective that any C-2 use could locate or build there if their request is approved. The subject property has 127 ft. of frontage on Ohio Street and 85 ft. of frontage on Faith Drive and is currently unoccupied. The applicant has indicated that no major structural changes are planned for this site. It has not been an active dentist office for over a year.

#### Intent and Purpose of C-1 District

The C-1 district is designed to provide for a restricted commercial alternative to multi-family development adjacent to arterial streets and highways, and at the same time avoid typical strip commercial development. To achieve this end, a very limited number of nonretail businesses are permitted.

#### Intent and Purpose of C-2 District

The C-2 district is designed to permit areas of convenience shopping facilities of no less than one (1) acre so located to serve one (1) or more residential neighborhoods.

#### Zoning Ordinance Requirements

If a zoning change from C-1 to C-2 is approved for the subject property, the following development limitations would apply:

1. Uses - Any permitted use allowed in the C-2 district, plus any conditional uses approved by the Planning Commission.
2. Maximum structure height: 50 ft. (vs. 30 ft. in C-1)

3. Minimum lot area: 10,000 sq. ft. (vs. 7,500 sq. ft. in C-1)  
Existing lot area: 10,795 sq. ft.
4. Minimum lot width: 75 ft.  
Existing lot width: 85 ft.
5. Minimum lot depth: 100 ft.  
Existing lot depth: 127 ft.
6. Minimum setbacks: Front yard – 25 ft. from the front property line or 75 ft. from the center line of Ohio Street whichever is greater and 25 ft. from the front property line or 55 ft. from the center line of Faith Drive whichever is greater.
- Side yard – none required, 15 ft. if it abuts a residential district.
- Rear yard – none required, 15 ft. if it abuts a residential district
- Existing setbacks: Front yard – 30 ft. and 30 ft.  
Side yards – 29 ft. (east) and 32 ft. (south)
7. Maximum lot coverage: 35% (vs. 30 % in C-1)
8. Off-street parking: One (1) space / 200 sq. ft. for medical and dental clinics  
One (1) space / 250 sq. ft. for retail  
One (1) space / 300 ft. sq. ft. for office  
Two (2) spaces / chair for beauty and barber shops
- All parking, maneuvering and driving aisles would have to be surfaced with asphalt or concrete paving in accordance with Sec. 42-552(e)(2) of the Zoning Ordinance.
- Landscaping: Since no changes or improvements are proposed to the property, no front yard landscaping is required.

#### Suitability of the Site for Development or Redevelopment Under Existing Zoning

This factor deals with the suitability of the property for development under the existing C-1 zoning and also whether the current zoning has inhibited development or

redevelopment of the property. Currently, the zoning of this property does not allow beauty shops as a permitted use.

The subject site consists of one platted lot with a 10,795 square foot area. Currently there is a building located near the center of the property with concrete paving to the east, north and south of the building fronting the two streets Ohio and Faith Drive. The applicants' tenant is proposing to use this building as the operating area for her beauty shop while the paved area to the south, east, and north will be allocated to vehicle parking. However, under straight C-2 zoning this property could be used for any use permitted use in the C-2 district and would not be limited to just beauty shop use.

Staff feels this site has very limited space for parking while still providing maneuverable access aisles. Because of the tightness of the site, lack of useable space for parking and the restrictions on left turns at Faith and Ohio, staff feels that the site is more suitable for small office use than retail or service businesses.

#### Character of the Neighborhood

This factor deals with whether the requested C-2 zoning would be compatible with the zoning and uses of nearby property.

This portion of the South Ohio corridor contains a mix of R-1, R-2, C-1, and C-5 zoning districts with the predominant zoning being C-5 to the north at the Crawford and Ohio intersection and R-1 to the south of the subject property. The C-5 zoning on the west side of Ohio extends south the Crawford about 280 ft. while the C-5 zoning on the east side extends about 220 ft. south of Crawford. With the exception of the first 280 ft. south of Crawford, the west side is primarily zoned R-1. On the east side, all of the properties fronting South Ohio south of the subject property are zoned R-1.

In staff's view it is not a good zoning practice to approve zoning changes that would create an isolated district unrelated to adjacent districts. This is commonly referred to as spot zoning. Therefore, because this request, if granted, would be the first C-2 zoning in this area, staff believes that this requested zoning change should be evaluated in terms of its future effect on the entire Ohio corridor and not just this particular site. C-2 zoning would serve as a transition from C-5 to R-1 just as the C-1 does today.

The C-1 zoning district is designed to provide for restricted commercial alternatives by offering a very limited number of nonretail businesses. The C-1 zoning district is intended to allow office buildings and medical and clinics. Although beauty shops are allowed in the C-1 district, they are only allowed inside buildings like the Mowery Clinic, provided that they can be entered only from an interior lobby or hallway and there is no advertising or display visible from the exterior of the structure. Since this existing building on the subject property is not a large clinic with multiple interior uses, the beauty shop not allowed under the current C-1 zoning. The C-2 zoning district is similar

to the C-1 zoning district in that it also is very limited in the allowed uses, but is intended primarily to provide neighborhood retail and services oriented to residential neighborhoods. The C-2 district is designed to accommodate businesses that serve one or more residential neighborhoods. In addition to the uses allowed in C-1 zoning districts, C-2 zoning allows such uses as apparel shops, bicycle shops, dry cleaners, florists, tailor shops, antique shops, banks, beauty shops, business offices, food stores and medical clinics.

The primary difference between C-2 zoning and C-1 zoning is that C-2 allows a number of uses that involve retail sales and services that generate more traffic and require larger sites than C-1 zoning. C-1 is designed to accommodate primarily office uses along with medical facilities and their internal accessory uses such as beauty shops, gift shops, news stands, pharmacies, and restaurants. C-1 also allows less lot coverage (30% vs. 35%) and restricts the structure height 30 ft. vs. 50 ft. in C-2. Consequently C-1 zoned corridors tend to have a different streetscape appearance than C-2 zoned corridors, with smaller lots and buildings and less parking.

While the use proposed by the applicant is similar in character to some of the existing commercial uses in the area and would not necessarily be incompatible with the uses of nearby property, a change from C-1 to straight C-2 zoning would open the door for any of the uses permitted in the C-2 zoning district, not just the beauty shop requested by the applicant. In staff's opinion, this site would not be suitable for many of the uses permitted in the C-2 zoning district. Planned C-2 with a limitation on uses would be a preferable alternative.

The question for the Planning Commission is whether straight C-2 zoning is needed or justified in this case and whether it would be compatible with the zoning and uses of nearby property.

#### Public Utilities and Services

This factor deals with whether the proposed rezoning will overtax public utilities, cause drainage problems, jeopardize fire or police protection or otherwise detrimentally affect public services and whether the property owner or developer will provide the public improvements necessary to adequately serve the development.

1. Water – 6 inch line in Faith Drive and a 20 inch line under Ohio Street which are adequate in capacity.
2. Sanitary Sewer – 8 inch line to the south of the property which is adequate in capacity.
3. Storm Water – This property drains to the west toward Ohio Street and north toward Faith Drive where water is collected into catch basins located at the Ohio

and Faith intersection. There is an 36 inch storm sewer in Ohio Street that carries runoff the old Smoky Hill River channel.

Adequate water sanitary sewer, gas and electrical lines are in place to serve this property. No physical changes to the property are being proposed by the applicant, so a change in zoning classification would not result in any additional burden on public facilities and service.

#### Street and Traffic

Site access for this property is limited. The primary access to this site is from Ohio Street with the secondary access being Faith Drive. Ohio Street is classified as an arterial street. Because of the proximity to the Crawford and Ohio intersection, the Ohio and Faith intersection is limited by the center road median that runs down the middle of Ohio. This creates a right-in, right-out only access when traveling from Ohio to Faith Drive. In addition, the site has a very restricted parking along with a narrow one-way driving aisle. This combined with the limited intersection of Faith and Ohio makes traffic circulation difficult.

Staff feels that many of the uses allowed in the C-2 zoning district would generate increased traffic that would exceed the functional use of this site.

#### Conformance with Comprehensive Plan

This factor deals with whether the proposed rezoning would be contrary to the goals, objectives and policies of the plan and whether the proposed rezoning would require an amendment to the plan and whether an amendment could be reasonably justified.

The future land use map in the city's Comprehensive Plan shows this section of South Ohio as being appropriate for commercial retail development and offices. More specifically, the land use recommended by the Comprehensive Plan for this particular location is office use. Rezoning this property from C-1 to C-2 would be inconsistent with this land use designation, even though C-5 is the predominant zoning designation in the South Ohio commercial corridor north of Faith Drive.

Because of the current traffic circulation limitations, this site may not be a suitable location for some of the high traffic generation uses C-2 would allow.

#### Planning Commission Alternatives

Staff has identified the following alternatives for Planning Commission's consideration.

1. The Planning Commission could recommend approval of a zoning change from C-1 to C-2 as requested.

2. The Planning Commission could direct applicant to amend their application to Planned C-2 which would allow the Commission to delete potentially incompatible uses.
3. The Planning Commission could recommend denial of the applicant's request entirely (that the existing C-1 zoning remain in place).

#### Staff Recommendation

Staff is unable to support the applicant's request for straight C-2 zoning.

As staff indicated to the applicants at the time their application was filed, we are not that concerned about conversion of the property to a small beauty shop but are more concerned with opening the door to unrestricted C-2 zoning and the potential for attracting additional incompatible uses to the site. This is best accomplished by applying for a limited, Planned C-2 district instead of straight C-2 zoning. Therefore staff would recommend Alternative #2. If this alternative is selected, staff would recommend the following conditions of approval:

1. Permitted uses on the property shall be limited to beauty shops plus other uses permitted in the C-1 district.
2. Development on the property, including signage, shall be subject to C-1 bulk regulations and development limitations.
3. A final site development plan shall be reviewed and approved by staff prior to issuance of a building permit.
4. The number of styling chairs allowed in the beauty shop be limited to the number of legal parking spaces available on the site.

If these conditions are imposed staff does not believe an amendment of the future land use map would be required.

**Application #Z07-16  
Filed by Jackie Bailey**

PRESCOTT AVE

SYLVAN PL

LEFRAN ST

WILBRE RD

CRAWFORD ST

**Request Area**

FAITH DR

MILLWOOD DR

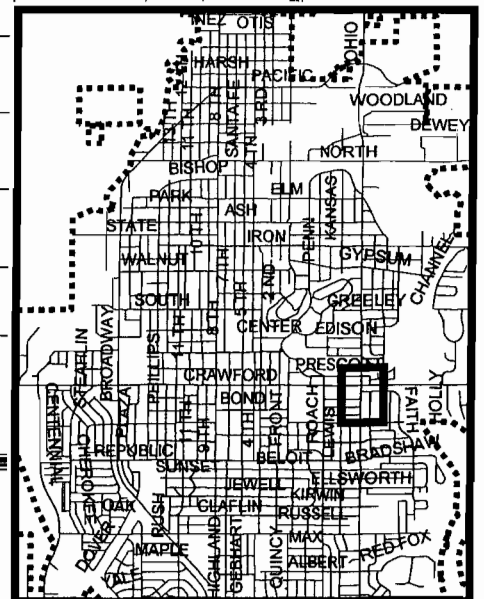
MOUNDVIEW AV

MANOR RD

OHIO ST

MANCHESTER RD

MELLINGER DR



**1 Inch = 200 Feet**

R-3 C-1

Application #Z07-16  
Filed by Jackie Bailey

C-5 PRESCOTT AVE

C-5

R-1

SYLVAN PL

WILBRE RD

R-2

LEFRAN ST

CRAWFORD ST

Request Area

C-5

C-5

R-3

FAITH DR

C-1

R-2

R-2

MILLWOOD DR

MOLINDVIEW AV

MANOR RD

R-1

R-1

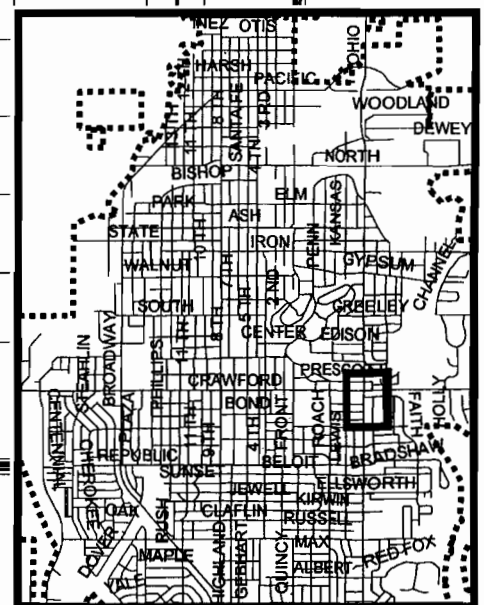
MELLINGER DR

OHIO ST

MANCHESTER RD



1 Inch = 200 Feet





## Attachment #1

### Planned Commercial vs. Straight Commercial Zoning

The Planned Commercial zoning process was added to Salina's Zoning Ordinance in 1987. The two main circumstances under which Planned Commercial zoning is used are:

- (1) The applicant / developer has a specific development proposal and wishes to present it as such or
- (2) The Planning Commission or Board of Commissioners believes that submittal of a binding site development plan is needed to ensure that the proposed commercial development will be compatible with the surrounding neighborhood.

It is sometimes referred to as "What you see is what you get" zoning. Neighbors generally like it because it brings some certainty to the rezoning process. Developers tend to believe it takes away their flexibility and ability to make changes to their plans.

#### **Standards of development in Planned Commercial Districts.**

- (a) A proposal to rezone land to a planned commercial district shall be subject to the same criteria relative to neighborhood compatibility, conformance to the comprehensive plan, adequacy of streets and utilities and other land use policies normally utilized in making zoning decisions in Salina.
- (b) The submittal by the developer and the approval by the Planning Commission or Board of Commissioners of site development plans represents a firm commitment that actual development will follow the approved site development plan in architectural concept, intensity of use, landscaping and screening and quantity of open space.
- (c) Commercial and office buildings should be planned and developed so as to avoid strip development patterns along thoroughfares. Control of vehicular access, architectural style, landscaping and signage will be exercised to soften the impact on nearby residential neighborhoods, and to minimize adverse effects on the adjacent street system.
- (d) The permitted uses in planned commercial districts shall be the same as those permitted in the equivalent standard zoning districts, **provided that limitations on the uses permitted may be imposed on the Planning Commission and the Board of Commissioners when it is deemed necessary to protect the interest of neighboring property owners.**
- (e) The maximum height of buildings and structures, setback and bulk of buildings, amount of lot coverage, parking requirements, screening, lighting and other performance standards shall be generally equal to those required in the equivalent standard zoning district; **however, deviations from these requirements may be approved if it is deemed that other features and**

**amenities will be gained. In addition, conditions and restrictions may be imposed on the plan to ensure that more appropriate development is produced and adverse impacts are avoided.**

Planned commercial zoning allows the Commission to delete potentially incompatible or undesirable uses from a district, grant exceptions to setback, height and lot coverage requirements and impose conditions of approval. These options are not available under standard or straight commercial zoning.

In some cases site plans are reviewed concurrently with the request to rezone a piece of property and in some cases a change in zoning is approved subject to final site plan review prior to issuance of a building permit.

## Attachment #2

### Comparison of Commercial Districts

#### **C-1 Restricted Business**

Allows business and professional offices, medical and dental clinics and churches as permitted uses. Banks, small animal hospitals and multi-family dwellings as conditional uses.

Maximum building height = 30 ft. Maximum lot coverage = 30%.

\*The C-1 district does not allow any freestanding retail uses.

#### **C-2 Neighborhood Shopping**

Allows C-1 uses plus limited retail uses such as dry cleaners, food stores, florists, gift shops and pharmacies as permitted uses. Hardware stores, liquor stores, restaurants w/o drive up windows, small animal hospitals and multi-family dwellings as conditional uses.

Maximum building height = 50 ft. Maximum lot coverage = 35%.

\*The maximum size of any business establishment (building) in C-2 is 25,000 sq. ft. This limitation is intended to keep businesses and buildings at a neighborhood scale.

## C-2 NEIGHBORHOOD SHOPPING DISTRICT

### **Sec. 42-267. Permitted uses.**

- (1) Antique shops;
- (2) Apparel stores;
- (3) Art galleries;
- (4) Banks and financial institutions;
- (5) Barbershops;
- (6) Beauty shops;
- (7) Bicycle shops;
- (8) Bookstores;
- (9) Business and professional offices;
- (10) Camera and photographic supply stores;
- (11) Churches, chapels, temples, synagogues, cathedrals and shrines;
- (12) Dry cleaning and laundry receiving stations where no processing or cleaning of clothing is done on the premises;
- (13) Florist shops;
- (14) Food stores, including grocery stores, meat markets, bakeries and delicatessens;
- (15) Gift shops and variety stores;
- (16) Group day care centers, provided that such use shall be separated from any commercial or industrial use in accordance with the requirements of the city's adopted building code;
- (17) Medical and dental clinics, and guidance centers;
- (18) Mortuaries and funeral homes, including crematories, providing that such facility is completely enclosed and that no odor or noise is discernible outside the structure;
- (19) Optical shops;
- (20) Pharmacies;
- (21) Public utility uses, including substations and ambulance services;
- (22) Self-service laundry and dry cleaning establishments;
- (23) Shoe repair shops;

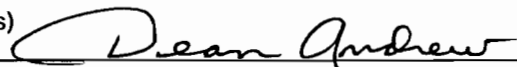
- (24) Studios or offices for artists, sculptors, authors, composers, photographers and other similar uses;
- (25) Tailor shops;
- (26) YMCA, YWCA and other similar organizations;
- (27) Any other similar retail business not specifically listed in any section is permitted if it complies with the conditions and restrictions contained in section 42-271;
- (28) Accessory and temporary uses, as permitted by article IV of this chapter;
- (29) Signs, as permitted by article X of this chapter;
- (30) Off-street parking and loading, as required by article XI of this chapter.

Publication Date August 28, 2007 Application No. Z07-15  
Hearing Date September 18, 2007 Date Filed August 22, 2007  
Filing Fee N/A Receipt No. \_\_\_\_\_

**APPLICATION FOR AMENDMENT TO THE ZONING TEXT  
SALINA CITY PLANNING COMMISSION**

The undersigned, being residents of the City of Salina, Kansas, do hereby apply to the Salina City Planning Commission for:  
amendment of Article VI, District Regulations, Division 13, C-3 (Shopping Center) District  
by amending Section 42-282(54) to allow drive in restaurants in addition to drive thru  
restaurants as a permitted use in the C-3 district.

Applicant's Name (print) Salina City Planning Commission

Applicant(s) Signature  Date August 22, 2007

Attach additional signature sheets if necessary. Be sure to include name, address, phone and signature of each applicant on the additional sheets.

If the applicant is to be represented by legal counsel or an authorized agent, please complete the following in order that correspondence and communications pertaining to this application may be forwarded to the authorized individual.

Name of representative: \_\_\_\_\_

Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone (Business): \_\_\_\_\_ E-mail address \_\_\_\_\_

STAFF REPORT  
SALINA CITY PLANNING COMMISSION

Case: #Z07-15

Hearing Date: September 18, 2007

Item

Application #Z07-15, filed by the Salina City Planning Commission, requesting an amendment of Article VI, District Regulations, Division 13, C-3 Shopping Center District, Section 42-282(54) to allow drive-in restaurants as a permitted use.

Background

This proposed text amendment is a result of discussions between Planning staff and the owners of the Sonic Drive-In restaurant at 310 S. Santa Fe about the possible reconstruction of that restaurant facility. The 300 block of South Santa Fe, south of Mulberry, is predominately zoned C-3 (Shopping Center) district. This included the Sonic Drive-In site at 310 S. Santa Fe. When the restaurant was built in 1973 the site was zoned "E" General Business which allowed restaurants, regardless of type, as a permitted use.

In 1977, when the current Zoning Ordinance was adopted and the city was comprehensively remapped, the Sonic Drive-in site was zoned C-3 as was most of the block directly south of downtown. In the 1977 Zoning Ordinance there was an effort to differentiate the C-3 district from the C-5 district. For example, the C-3 district allows less lot coverage (40% vs. 50%), less building height (35 ft. vs. 50 ft.) and restricts the amount of paving coverage in the front yard to 60% vs. 100% in C-5. Consequently C-3 zoned corridors tend to have a different streetscape appearance than C-5 zoned corridors.

Another example is that the C-5 district allows drive-in restaurants as well as restaurants with drive up window service while the C-3 district allows restaurants like Wendy's and Burger King with drive through serve but not drive-in restaurants like Sonic. The result is that if the current Sonic restaurant building on Santa Fe were torn down it could not be rebuilt without a zoning change or ordinance text amendment.

Staff Analysis

Staff has reviewed this situation and believes it makes more sense to amend the C-3 district regulations to include drive-ins then it does for Sonic to attempt to rezone their Santa Fe location to C-5. Therefore, staff has drafted such an amendment for the Planning Commission's consideration. In staff's view restaurants with drive up windows share many of the same characteristics as drive-ins including ordering stations, amplified sound, frequent customer turnover, etc. and staff can not see any Planning rationale for allowing one but not the other in the C-3 district.

Staff Recommendation

Staff would recommend approval of a text amendment that would allow all types of restaurants (sit down, drive up and drive-in) in the C-3 district.

## Proposed Amendment

### Existing

Sec. 42-282. Permitted uses.

Permitted uses in the C-3 district are as follows:

- (54) Restaurants, with or without drive-up window service, **other than drive-in establishments;**

### Proposed

Sec.42-282. Permitted uses.

Permitted uses in the C-3 district are as follows:

- (54) Restaurants, including establishments with drive up window service and drive-in establishments, serving food or beverages to customers for consumption on the premises or in parked motor vehicles;

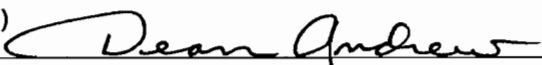


Publication Date August 28, 2007 Application No. Z07-17  
Hearing Date September 18, 2007 Date Filed August 22, 2007  
Filing Fee N/A Receipt No. \_\_\_\_\_

**APPLICATION FOR AMENDMENT TO THE ZONING TEXT  
SALINA CITY PLANNING COMMISSION**

The undersigned, being residents of the City of Salina, Kansas, do hereby apply to the Salina City Planning Commission for:  
amendment of Article VI, District Regulations, Division 2, A-1 (Agricultural) District by  
amending Section 42-113(16) to add outdoor paintball ranges to the list of recreational uses  
allowed as a conditional use in the A-1 district.

Applicant's Name (print) Salina City Planning Commission

Applicant(s) Signature  Date August 22, 2007

Attach additional signature sheets if necessary. Be sure to include name, address, phone and signature of each applicant on the additional sheets.

If the applicant is to be represented by legal counsel or an authorized agent, please complete the following in order that correspondence and communications pertaining to this application may be forwarded to the authorized individual.

Name of representative: \_\_\_\_\_

Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone (Business): \_\_\_\_\_ E-mail address \_\_\_\_\_

STAFF REPORT  
SALINA CITY PLANNING COMMISSION

Case: #Z07-17

Hearing Date: September 18, 2007

Item

Application #Z07-17, filed by the Salina City Planning Commission, requesting an amendment of Article VI, District Regulations, Division 2, A-1 (Agricultural) district, Section 42-113(16) by adding paintball ranges to the list of recreational facilities allowed as a conditional use.

Background

During discussion of the recent proposal by St. John's Military School to establish an outdoor paintball range as a recreational activity for students, the question was raised whether a private landowner could establish a commercial paintball range that would be open to the public. Staff's response was no based on the current ordinance (Sec. 25-111) which prohibits the discharge of paintball guns within the city limits but also because commercial paintball ranges are not listed as a permitted or conditional use any where in the city's zoning ordinance. However, if the City Commission amends Sec. 25-111 to allow the discharge of paintball guns at "supervised" paintball ranges it is possible that a proposal could be received to establish a recreational paintball range somewhere within the city.

Staff Analysis

In looking at the land area requirements for a paintball range and our current zoning ordinance, staff believes that the A-1 (Agricultural) district would be the most suitable district to accommodate commercial paintball ranges because it already allows some similar uses such as gun clubs and trap shooting ranges as conditional uses.

Staff Recommendation

Staff would recommend that the list of recreation facilities listed as conditional uses in the A-1 district be expanded to include paintball ranges.

\*Staff would note that this recommendation would not go to the City Commission until such time as they consider an amendment to Salina Code Sec. 25-111.

## Proposed Amendment

### Existing

Sec. 42-113. Conditional uses.

Conditional uses in the A-1 district are as follows:

- (16) Recreational facilities such as campgrounds, youth camps, gun clubs, and skeet and trap shooting ranges;

### Proposed

Sec. 42-113. Conditional uses.

Conditional uses in the A-1 district are as follows:

- (16) Recreational facilities such as campgrounds, youth camps, gun clubs, skeet and trap shooting ranges, and commercial paintball ranges. The following standards shall apply to the development of outdoor paintball ranges:

1. The minimum lot area shall be ten (10) acres.
2. The paintball facility shall have direct access to road designated as a collector (or higher) street unless the Planning Commission determines the type and amount of traffic generated by the facility is such that it will not negatively impact the condition of the roadway or adversely affect neighboring properties with frontage on the affected street.
3. No area where paintballs are discharged shall be located within 300 feet of any lot line or 500 feet from any adjacent residential structure provided that a lesser setback may be approved by the Planning Commission upon a determination that the lesser setback in combination with other elements of the site design and/or conditions on adjoining properties provide adequate protection to adjoining properties and rights-of-ways.
4. A 20 foot high nylon mesh screen shall be installed around all play areas and shall be removed when the play area is not being utilized, at the end of each day. The height of the screen may be lowered to no less than 10 feet upon determination by the Planning Commission that the lower screen in combination with other elements of the site design provides adequate protection from discharged paintballs.

5. No structure on the paintball range shall be located closer than 100 feet from any lot line.
6. A plan of operations specifying days and hours of operation, supervision of the area, number of participants and employees, types of equipment to be utilized by users of the site, safety procedures, type of compressed air fuel to be utilized on the site and storage and maintenance procedures for the compressed air fuel shall be provided for review in conjunction with the Conditional Use Permit application.
7. The hours of operation shall be limited to 8:00 A.M. to 9:00 P.M., and further restricted as applicable to daylight hours.
8. No lights or amplified sounds shall be permitted.
9. All parking and spectator areas, structures and play areas shall be Effectively screened.
10. Any retail sales conducted on the property shall be accessory and incidental to the permitted activity and conducted only for the participants of the site.

**Sec. 25-154. Unlawful discharge of firearms.**

Unlawful discharge of firearms is the discharging or firing of any gun, rifle, pistol, revolver or other firearm within the city. This section shall not be construed to apply to:

- (1) The discharge of firearms by any duly authorized law enforcement officer when necessary in the discharge of his or her official duties;
- (2) The discharge of firearms in any licensed shooting gallery;
- (3) Firing squads for ceremonials; nor
- (4) A legitimate gunsmith in pursuit of his or her trade.

Unlawful discharge of firearms is a Class B violation.

(Ord. No. 91-9475, § 1, 11-18-91)

**Sec. 25-155. Air gun, air rifle, bow and arrow, slingshot or BB gun.**

The unlawful operation of an air gun, air rifle, bow and arrow, slingshot or BB gun is the shooting, discharging or operating of any air gun, air rifle, bow and arrow, slingshot or BB gun, within the city, except within the confines of a building or other structure from which the projectiles cannot escape.

Unlawful operation of an air gun, air rifle, bow and arrow, slingshot or BB gun is a Class C violation.

(Ord. No. 91-9475, § 1, 11-18-91)

**Sec. 25-156. Seizure of weapon.**

The chief of police of the city or his or her duly authorized representative is hereby empowered to seize and hold any air gun, air rifle, bow and arrow, slingshot or BB gun used in violation of section 25-155 of this article, and is further empowered to seize and hold as evidence pending a hearing before a court of competent jurisdiction any air gun, air rifle, bow and arrow, slingshot or BB gun used in violation of section 25-155.

(Ord. No. 91-9475, § 1, 11-18-91)

**Sec. 25-157. Unlawful aiding, abetting.**

It shall be unlawful for any person to conspire to or aid and abet in the operation or discharging or causing to be operated or discharged any air gun, air rifle, bow and arrow, BB gun or slingshot except as provided in section 25-155 within the city, whether individually or in connection with one (1) or more persons or as principal, agent or accessory; and it is further unlawful for every parent or guardian of a minor child who willfully or knowingly permits or directs the operation or discharge of any air gun, air rifle, bow and arrow, BB gun or slingshot by such minor child within the city except as provided in section 25-63 of this article.

Violation of this section is a Class C violation.

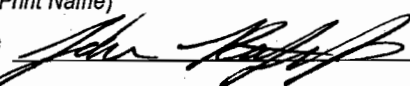
(Ord. No. 91-9475, § 1, 11-18-91)

FILING DATE August 17, 2007SPECIAL USE PERMIT NO. SUP07-4ADDRESS OR LOCATION 1500 S. 9th StreetRECEIPT NO. 95000, 8/21/07 SW. FEE \$80.00**APPLICATION FOR SPECIAL USE PERMIT (OPEN AIR MARKETS)**Salina, Kansas August 17, 2007

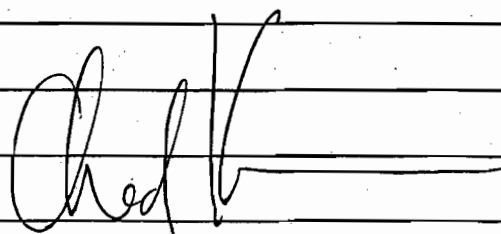
Under the provisions of Chapter 42-59 of the Salina Code, the undersigned hereby applies for a Special Use Permit to: *(indicate proposed use or development)*

Hot Farmers Marketon property legally described as Lot(s) I-7Block 1Addition Pleasant ViewStreet Address 1500 S. 9th StreetZoning of Property C-5

Proposed development of the property is shown on plans attached hereto. Type and character of the proposed use is as follows:

See back of attached applicationPetitioner John Ratzlaff  
(Please Print Name)Telephone No. (785)493-5313Petitioner's Signature Petitioner's Address 2829 West Salemsborg Rd., Smolan, KS 67456Contact Person John RatzlaffTelephone No. (785)493-5313Contact Person's Address 2829 West Salemsborg Rd., Smolan, KS 67456

\*NOTE- Please designate one individual as the person responsible for the operation of the market. Information and questions will be directed to this person.

RECORD OWNER & ADDRESS Chad Kassem,Acoustic Sounds, Inc.1500 S. 9th StreetSalina, KS 67401

STAFF REPORT  
SALINA CITY PLANNING COMMISSION

Case #SUP07-4

Hearing Date: January 16, 2007

Request: Special Use Permit to allow an open air market in a C-5 (Service Commercial) District

Location: Northwest corner of Claflin Avenue and 9<sup>th</sup> Street

Legal Description: Lots 1-7, Block 1, of the Pleasant View Addition to the City of Salina, Saline County, Kansas

Property Owner/Applicant: Acoustic Sounds Inc. / Chad Kassem

Size of Site: 175 ft. x 266 ft. (46,550 sq. ft.)

Existing Zoning/Land Use: C-5 / Acoustic Sounds Inc. Warehouse

Surrounding Zoning/Land Use:

|       |  |
|-------|--|
| North | C-3 / Single-Family dwellings                  |
| South | C-3 / Kwik Shop                                |
| East  | C-3, PC-5 / Retail shops, Fast Lane Autosports |
| West  | R-1 / Single-Family dwellings                  |

Proposed Use: Open Air Market

Comprehensive Plan: Commercial / Retail

Background Information

The City's Temporary Use/Temporary Use Permit ordinance was adopted in 1989. It established an application process and authorized the Zoning Administrator to administratively issue Temporary Use Permits for certain types of transient retail uses and special events. Over the years staff found that outdoor flea markets and farmer's markets sometimes had spillover effects on neighboring properties in terms of parking, trespassing and leftover trash. Staff would receive complaints about how such markets were operating after a permit had been issued.

In May of 2003 staff discussed a concept with the Planning Commission that would substitute a public notice and hearing process for flea markets and other open air markets for the current administrative staff review and approval. Staff believed such a process would improve the pre-planning of these types of weekly events by allowing neighboring property owners to have input into the location and operation of an outdoor sales event prior to the start of the event instead of reacting to the impacts that such open air markets may have on their business or property. A notice and hearing process would allow those property owners to comment on and ask questions about the operation of the farmer's

market up front and allow the Planning Commission to establish conditions of approval.

The Planning Commission authorized staff to initiate a possible text amendment to address these impacts. Most of these markets are seasonal and a new Temporary Use Permit is applied for and issued each calendar year. Under staff's proposal a Special Use Permit would be required to initially establish an open air market in a particular location but it could be renewed administratively each calendar year as long as it was in compliance with the original conditions of approval. The proposed amendment also allowed for a permit to be revoked for cause.

The Planning Commission conducted a public hearing on this proposed text amendment on June 3, 2003. A draft of the proposed ordinance changes was sent to current flea market and farmers market operators, but no one appeared and spoke at the hearing. At the conclusion of the public hearing the Planning Commission voted 8-0 to recommend approval of the proposed changes to the Temporary Use regulations as drafted.

The City Commission approved the ordinance amending the Temporary Use regulations on July 7, 2003 with the intent that it go into effect when open air markets applied for or attempted to renew their permits for calendar year 2004. This process has been utilized since 2004 for these types of outdoor sales vendors.

#### Nature of Current Request

The applicant, John Ratzlaff, owner of Edge of Eden, has been setting up a portable produce stand under a Temporary Use Permit since May 29<sup>th</sup>, 2007. The Temporary Use Permit may be granted to transient retailers by the Zoning Administrator for a time period not to exceed 14 days within a 6 month period. Because Mr. Ratzlaff has used up all of the time permitted by the Temporary Use Permit, he is applying for a Special Use permit which would allow his produce business to operate every Wednesday from April through December. The purpose of the Wednesday Farm Market is to provide Salina consumers with quality farm products at a convenient location and a reasonable price. The Market will provide farm producers with an organized retail operation that would attract customers traveling on S. 9<sup>th</sup> Street. Several vendors already sell their product at the Saturday Farmer's Market in Downtown Salina. Having an additional location for the applicants on Wednesday would enable these vendors to offer additional fresh produce to customers in south Salina. Mr. Ratzlaff has secured permission from Chad Kassem, owner and operator of Acoustic Sounds Inc. and has filed an application for approval of a Special Use Permit to establish and operate an open air market at the northwest corner of Claflin Avenue and 9<sup>th</sup> Street. The site measures 175 ft. x 266 ft. and consists of the Acoustic Sounds offices, warehouse and paved parking.

#### Zoning Ordinance Requirements

The Planning Commission must find that the proposed open air market will comply with all



applicable zoning ordinance requirements. Pursuant to Section 42-59(6)a. an outdoor flea market may operate in a C-3 or higher district and is defined as “any place where the owner or operator thereof allows more than one (1) person to sell merchandise from outdoor stalls, booths, stands, etc., which are not open for business on a daily basis”.

#### Proposed Dates and Hours of Operation

The proposes market will be open on Wednesdays; from 3:00 - 7:00 PM. as weather allows. Should the market operation succeed in this location, the Market operator would like to resume operation in April of 2008.

#### Products

Only locally produced food products will be sold at the market. These may include, but not be limited to, vegetables, fruit, herbs, jams, jellies, cider, baked goods, eggs and other food products. No non-food vendors are proposed.

#### Market Operator

John Ratzlaff, owner of Edge of Eden, would be the market operator. It is not anticipated that any other vendors would be located on the site at this time.

#### Location and Availability of Off-Street Parking

The Commission must find that adequate access drives will be provided and designed so as to prevent traffic hazards and that adequate off-street parking areas will be provided.

The proposed open air market location is a high traffic commercial intersection – Claflin and 9<sup>th</sup> Street. Adequate off-street parking is available on the property for customer and vendor vehicles. Currently the property has 29 parking spaces and is only required to have 8 parking spaces based on its current use. The 21 surplus spaces is enough space to provide the vendor an adequate staging area and appropriate off-street parking for employees and customers. All loading and unloading will take place off the street. No parking will be allowed on Claflin or Ninth Street at any time. Parking on the site will not conflict with the use of nearby businesses. Being mainly a warehouse, Acoustic Sounds does not generate heavy traffic so there would be no need at this time for any marked spaces over and above what is provided for market customers.

#### Stall and Display Practices

The applicant is requesting permission to have a 4 ft. x 4 ft. A-Frame sign with the vendors name, "Edge of Eden" painted on the top half with the bottom half of the sign serving as a changeable copy sign advertising special produce. The sign will not be placed in the public street right-of-way or where it would obstruct visibility at the

driveway entrance to the property.

The Vendor's display will be set up around a portable trailer/cooler. The trailer is 8 ft. wide by 10 ft. long and projects an overhead awning. The overhead awning projects out from the trailer an addition 10 ft. and matches the full 10 ft. length of the trailer. The combined area of the trailer and overhead awning will cover an 18 ft. x 10 ft. space. Under the awning the applicant wants to place portable fold out tables oriented in a U-shape configuration. The portable tables will serve as a display area for produce. Produce displays will be kept clean, hazard free and reasonably attractive. Vehicles used to transport produce to the market are expected to be clean and free of solid waste and/or any foreign material. No display will be placed in the public street right-of-way. Tents and canopies will comply with Article 32 of the Uniform Fire Code.

The market vendor may set up their display no earlier than one hour prior to opening, and once the market closes, the vendor is expected to promptly close their stand, pack up and leave.

#### Noise Control

The market area is located on a large commercial lot and will be located about 200 ft. from the closest residence. This would limit the effect of the market on neighboring property owners. The vendor and the public will be expected to use and encourage courteous and quiet behavior. No loud music or other offensive noise will be permitted on the property.

#### Cleanup/Restoration

Sufficient waste containers will be maintained on the site for trash. All waste containers will be hauled away at the end of the day. The vendor will be required to remove all trash and litter around their display area from any source before their departure from the site. The applicant has stated that they will have portable trash bags on site for refuse materials.

#### Sanitation/Utilities

No electricity or water will be needed or used by the market in this location. Currently the applicant and his employees have used the Kwik Shop facilities across the street to the south. This arrangement has been implemented since May of 2007 with no problems. Should the market operation be successful in this location, arrangements will need to be made with nearby businesses or porta-potties will need to be brought in to accommodate vendors and the public on the site.

Security and Fire Safety/Emergency Medical

The property owner maintains general liability insurance to cover injuries or damages incurred by persons on the lot. The market operator will be responsible for security and for coordinating emergency assistance should it be needed.

Compliance

The vendor is expected to comply with the following applicable local, state and federal regulations:

- Pesticide licensing and safe use
- Food safety, sanitation and health permits
- Proper collection of the required sales taxes

Staff Comments

The subject property is located in a mixed use commercial corridor. Surrounding uses include Acoustic Sounds, Fast Lane Autosports, a convenience store and other retail businesses. The site appears to be large enough to accommodate an open air market.

The applicant has indicated that trash cans will be available on-site and that he will be responsible for site clean up. Mr. Ratzlaff has also indicated his intent to display an A-Frame on-site sign for the market. However, the applicant has not fully established a plan for providing restrooms for employees and customers other than using the Kwik Shop facilities on the southwest corner of Claflin and 9<sup>th</sup> Street.

Alternative Actions

The Planning Commission has the following options available in the consideration of this application:

1. Approve the application as submitted upon a finding that the requirements of Sec. 42 59(6)(a), Special Use Permits, of the Salina Code have been satisfied.
2. Approve the application subject to specified conditions.
3. Table the application if additional information is needed.
4. Deny the application if the required findings cannot be made or if the proposed use is found to be incompatible with the use of surrounding properties.

Required Findings

In deciding whether a Special Use Permit for an open air market should be approved, denied or approved with conditions, the Planning Commission should consider whether:

1. The dates and hours of operation of the proposed market will be compatible with the uses adjacent to the proposed market location.
2. The amount of noise generated by the market activity will disrupt the activities on adjacent properties.
3. Adequate utilities and sanitation facilities are available or will be provided at the site.
4. Adequate provisions have been made for the removal of trash and litter from the site.
5. The off-street parking required to support the market can be accommodated on-site or without causing undue disruption or interference with the flow of traffic on adjacent public streets or with the rights of surrounding property owners to use their parking facilities.

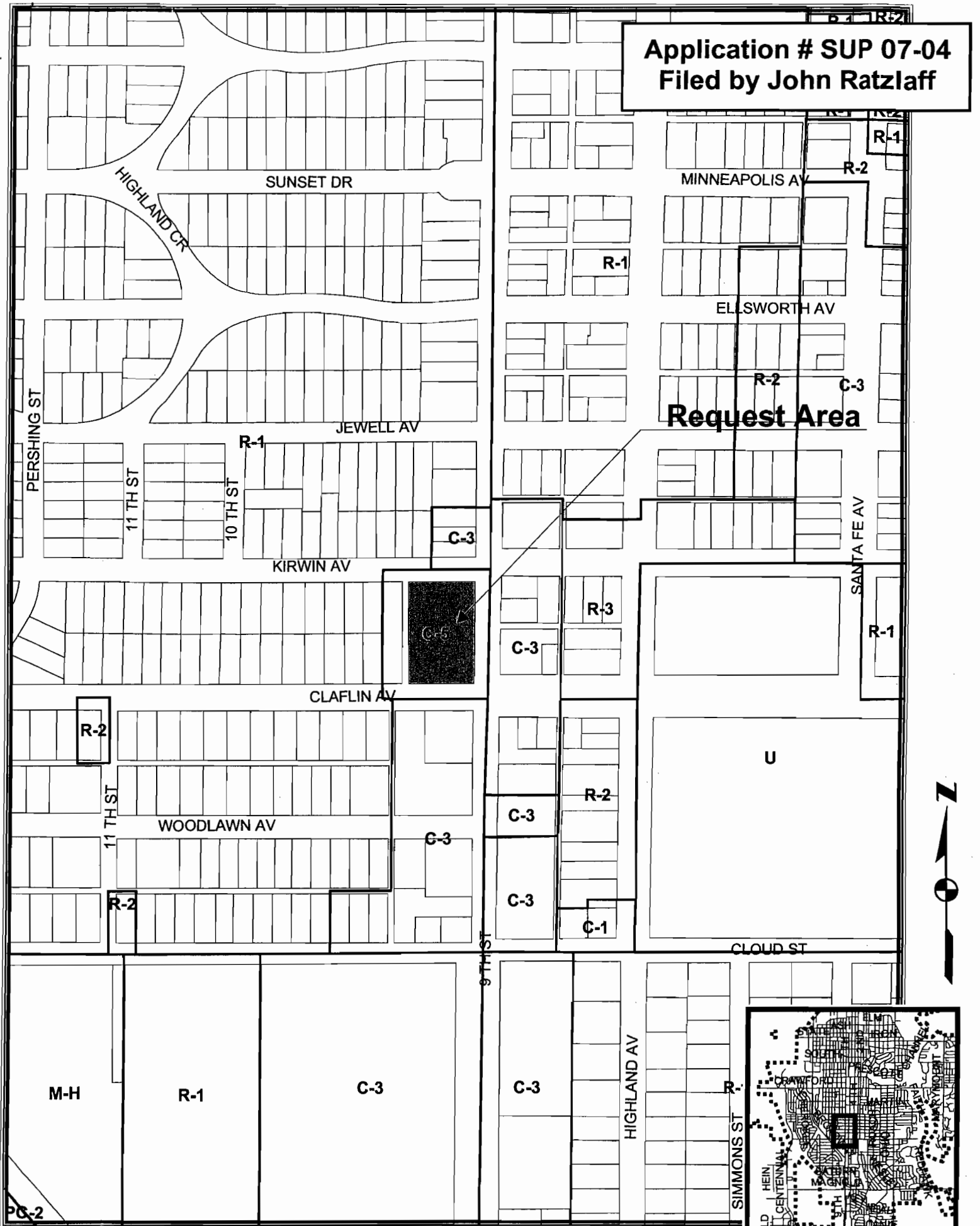
Staff Recommendation

If the Planning Commission wishes to approve this Special Use Permit application and site plan as submitted, staff would recommend the following conditions of approval:

1. The open air market shall be limited to a single vendor / operator.
2. Display areas shall be clearly identified and marked.

If approved by the Planning Commission, staff would recommend that this permit will be valid through the 2007 calendar year. It may be renewed administratively on an annual basis as long as the market remains in compliance with all conditions of approval.

Application # SUP 07-04  
Filed by John Ratzlaff



1 inch = 300 feet



# SITE PLAN

## 1500 S. 9<sup>TH</sup> STREET



Development Services  
Planning and Community Development  
Dustin Herrs  
Assistant Planner  
300 W. Ash  
P.O. Box 736  
Salina, KS 67401-0736

RE: Application # SUP-4  
John Ratzlaff

Dear Mr. Herrs,

I just received the letter, pertaining to the request of John Ratzlaff's, the owner of Edge of Eden, an open air market, for Special Use Permit, in area C-5, Lots 1-7, Block 1 in the Pleasant View Addition to Salina.

I unfortunately, will not be able to make the open public hearing that is scheduled on 9-18 at 4:00pm. So, I will attempt to share my view from this letter.

**I would like to welcome Mr. John Ratzlaff to my neighborhood. I have watched him sell his produce and his business appears to be very appealing to consumers. I'm sure that his business will be an asset to the neighborhood and community. I want to wish him continued to success.**

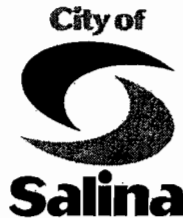
Please convey my letter during this meeting.

With much appreciation,

A handwritten signature in black ink, appearing to read 'Adam Bonilla', written over a horizontal line.

Adam Bonilla  
401 W. Kirwin  
Salina, KS 67401

DEVELOPMENT SERVICES  
PLANNING AND COMMUNITY DEVELOPMENT  
Dustin Herrs, Assistant Planner  
300 West Ash · P.O. Box 736  
Salina, Kansas 67402-0736



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E-MAIL · [dustin.herrs@salina.org](mailto:dustin.herrs@salina.org)  
WEBSITE · [www.salina-ks.gov](http://www.salina-ks.gov)

August 24, 2007

RE: Application # SUP-4  
John Ratzlaff

Dear Property Owner:

Application #SUP07-4, filed by John Ratzlaff, requesting a Special Use Permit to allow an open air market in a C-5 (Service Commercial) District. The subject property is legally described as Lots 1-7, Block 1 in the Pleasant View Addition to the City of Salina, Saline County, Kansas. The subject property is located at the northwest corner of 9<sup>th</sup> Street and Claflin Avenue and is addressed as 1500 S. 9<sup>th</sup> Street.

John Ratzlaff is the owner of Edge of Eden and wishes to sell produce from the southeast corner of the parking lot of 1500 S. 9<sup>th</sup> Street. He is requesting the approval of a Special Use Permit to allow him to sell local produce from 3:00PM - 7:00PM on Wednesdays from April through December. No additions or changes are being proposed to the subject property. Long term vending is not currently permitted at 1500 S. 9<sup>th</sup> Street.

A public hearing on this application is scheduled for **September 18, 2007** at 4:00 p.m. in Room 107 of the City-County Building. You are invited to attend and may submit any information in favor of or in opposition to the request at that time. You may protest any action that the Planning Commission takes by filing a written protest with the City Clerk within 14 days after a recommendation is formulated by the Planning Commission. Protest forms are available at the City Clerk's office.

This notice is being mailed to all owners of property within 500 feet of the area requested for the Special Use Permit and a vicinity map is enclosed. You are welcome at the City Planning Department, Room 201 of the City-County Building, to review the file of this application or you may call me or Dean Andrew, Director of Planning and Community Development at 309-5720 if you have questions or would like additional information.

Sincerely,

*Dustin Herrs*

Dustin Herrs  
Assistant Planner

Encl: Vicinity Map

8-28-07  
To Dustin Herrs -  
From Phil Coleman

I don't have any problem  
with this business -

Thank You,  
Phil Coleman



## **BACKGROUND REPORT ELECTRONIC BILLBOARDS**

At the present, there are no regulations in the existing Salina Zoning Ordinance that would prevent new off-premises advertising signs or replacement of existing off-premises advertising signs with digital display in many zoning districts throughout the City. The concerns and questions raised about electronic billboards in other communities have focused on the impacts that electronic and digital displays may have on the aesthetics of commercial and neighborhood areas, the traffic safety implications of moving or changing vivid displays, the effects of light and noise generated by the signs on surrounding residential areas, and the impact such signs may have on land values.

Since the Planning Commission's February study session, staff has been reviewing our existing sign regulations as applied to electronic displays and off-premises advertising in general. This report summarizes our findings and recommendations.

### **Existing Regulations**

Salina's Sign Regulations in Chapter 42 of the City Code only permit off-premises advertising signs to be located in the A-1 district and specific commercial and industrial districts. Existing regulations which apply to off-premises advertising signs in Salina include the following:

#### **In A-1 (Agricultural) districts:**

*Number of signs permitted:* One (1) per zoning lot provided that advertising signs shall not be permitted within five hundred (500) feet of a residence and not closer than five hundred (500) feet from another advertising sign.

*Maximum gross surface area:* Four hundred (400) square feet.

*Required setback:* None required, except that any sign which exceeds two hundred (200) square feet in gross surface area shall maintain the same setback that is required for principal structures and in no case shall a sign project over public property.

*Illumination:* Illumination of signs is prohibited.

#### **In Residential, C-1, C-2, C-3 and I-1 districts:**

Off-premises advertising signs not permitted.

**In C-5, C-6 and C-7 districts:**

*Number of signs permitted:* No limitation.

*Maximum gross surface area:* Four (4) square feet of sign area for each lineal foot of building frontage. Where no building frontage exists, four (4) square feet of sign area for each lineal foot of street frontage.

*Required setback:* None required, except that any sign which exceeds two hundred (200) square feet in gross surface area shall maintain the same setback required for principal structures, and in no case shall a sign project over public property.

*Illumination:* Illuminated signs shall be permitted.

**In I-2 and I-3 districts:**

*Number of signs permitted:* No limitation.

*Maximum gross surface area:* Four (4) square feet for each lineal foot of street frontage.

*Required setback:* None required.

*Illumination:* Illuminated signs shall be permitted.

\* It should be noted that there are several billboards located throughout the city that are considered legal non-conforming signs under the provisions of the Zoning Ordinance and may not comply with one or more of the existing regulations based on when they were installed.

**Other Jurisdictions**

In response to the changing technology in outdoor advertising, there are several other jurisdictions throughout the country that have or are considering amending their sign regulations as they are applied to electronic and digital display off-premises advertising signs. The jurisdictions recently considering sign amendments include Sioux Falls, South Dakota; Lincoln, Nebraska; Des Moines, Iowa; and the cities of St. Paul, Eagan, Minnetonka, and Bloomington in Minnesota.

States that prohibit all off-premises advertising signs include: Vermont, Hawaii, Maine and Alaska. In addition the States of Rhode Island (since 1990) and Oregon (since 1975) have prohibited any additional off-premises advertising

signs on state and federal roads. Some larger cities have put a cap on the number of off-premises advertising signs permitted in the community.

### Review of Electronic Billboard Impacts

In order to review the potential impacts of electronic billboards, staff searched for information on traffic safety and the aesthetic impacts of digital display off-premises advertising signs. The primary impacts identified in the literature staff reviewed revolved around the following factors:

- Distance from the road to the sign and between signs as well as the size of the sign.
- Brightness or level of illumination – brighter digital displays not only provide additional distraction to drivers at night, but also provide distracting glare by reflecting sunlight during the day. Illumination also affects the nearby surrounding land uses.
- Length of time image is displayed – image display times shorter than the industry standard of 8-10 seconds result in a greater distraction for drivers.
- Transition of images – a transition time of longer than a second creates additional distraction for drivers.

The search for safety research regarding electronic / digital display off-premises signs came up with very limited results. The one definitive study that was referenced several times in the search was a 2003 study completed by the Wisconsin Department of Transportation. While this report essentially found that electronic / digital display and off-premises signs were indeed a distraction, there was no conclusive evidence that they caused an increase in accidents. Incidents reported were much less frequent than incidents related to cell phone or radio use. For this reason, staff would recommend that any change in Salina's sign regulations be based primarily on the aesthetic impacts on the community created by such signs.

### Staff Recommendations and Conclusions

After reviewing research and recently adopted regulations on electronic / digital display and off-premises advertising the Planning staff reached the following conclusions:

- Electronic / digital display off-premises advertising signs can have a direct and substantial impact on community aesthetics, property values, traffic and pedestrian safety.
- Electronic / digital display advertising signs are highly visible from long distances and at wide viewing angles both day and night and are designed to catch the eye of persons in their vicinity and hold it for extended periods of time.

- Without changes in the City of Salina's Zoning Ordinance with regard to Electronic / Digital Display signs (in particular billboard sized signs), an influx of these signs could have a negative impact on community aesthetics, property values, and traffic safety.

Consideration of the following amendments to the City of Salina's Zoning Ordinance are recommended:

- Provide a more extensive review of the designated commercial and entryway corridors that are currently unprotected with regard to off-premises signs to determine if additional corridors and future planned corridors should be included under these limitations. (For example new billboards were prohibited in the North Ohio Overlay District).
- Incorporate regulations for control of electronic / digital display off-premises signs to regulate the distance of sign from roadway, residential uses, and other signs; brightness/illumination (i.e. automatic dimmer of sign at dusk); duration of message (i.e. set an absolute minimum of greater than 8 seconds); transition of message (i.e. require instantaneous re-pixelization); and prohibit the fluctuation, animation, or movement of the message.
- Modify regulations with regard to illumination of existing billboards (i.e. require down-directional, sharp cut-off lighting with recessed bulbs).
- Investigate the possibility of reducing the maximum size of billboards in commercial and industrial districts.
- Deal with the scoreboard issue.

**FYI  
ITEM**

# **OUTDOOR ADVERTISING REVIEW COMMITTEE**

Kickoff Meeting – August 15, 2007

## **Meeting Summary**

The committee met in the City Hall Council Chambers from 2:00 to 3:30 pm. The meeting started with introductions. City Planner welcomed everyone and discussed the background and purpose of the committee.

**BACKGROUND.** In 2006 and again more recently, LAMAR Advertising requested an amendment to the sign ordinance to pursue several potential changes as follows; to allow more freedom of maintenance, to replace certain double-stack signs with smaller single monopole structures, to create a cap and replace program with “banked” credits for signs removed, and to investigate the possibility of electronic display billboards. At the July Planning Commission meeting there were other sign owners from Kearney that did not agree with the changes requested by LAMAR. To complicate matters further, updated language in the current sign ordinance, adopted in 2002, made virtually all outdoor advertising signs within the City’s jurisdiction nonconforming in some manner. The types of non conformance include; double-stack signs no longer allowed, billboards no longer allowed in commercial zoning districts, signs that do not meet the sign to sign separation requirement, and signs that are too far or too close to the street. The Planning Commission listened to all of the input and decided that there were many complicated issues and many differing opinions. Therefore, the commission directed staff to form a study committee including members of staff, sign owners, and Planning Commission members to further investigate these issues.

**PURPOSE.** The purpose of the committee is to research and investigate the issues outlined above with an eye to amending the ordinance appropriately. City Planner stated that goals should be set for several action items the committee would like to see addressed. It was agreed that the best approach would be to tackle the issues one by one, starting with the least controversial and moving forward to the more complicated issues later. All the participants were asked to consider what changes each felt would be most appropriate for their individual circumstances. In compiling this information there may be areas of overlap and common interest that can be pursued. Also, the members were encouraged to bring any information from other communities, newspaper and magazine articles, technical studies, and similar information that may benefit the group. The Building Official suggested that a copy of the State of Nebraska Billboard Regulations may be a starting place for comparison, or perhaps a model to modify to fit the needs of our community. City Planner clarified that it was not the City officials that brought the initial code amendment forward. As previously stated, it was one of the sign companies. Therefore, City Attorney stated that the players within the outdoor sign industry should work together on these issues and prepare language that they feel reflects their interest. City Planner stated that as much as possible, the city staff would try to remain in a neutral position to allow discussion and consideration of any and all alternatives. In the end, the city will review the proposed amendments presented by the sign owners and take a position based for the staff report to Planning Commission and City Council.

**TIMELINE.** The Planning Commission requested a report from the committee at the December 21, 2007 Planning Commission meeting. The group decided to meet every two weeks at City Hall at 2:00 pm. The next meeting will be August 29.

**GENERAL DISCUSSION.** A host of issues were discussed, many of which are already mentioned in this meeting summary. The sign owners felt that it was unfair that recently, perhaps even five years ago, several signs were erected that were fully compliant with the ordinance in place at that time, but now the newer ordinance has made the same signs nonconforming. The owners felt that there is an inequity in how the ordinance regulates the structures in a "one size fits all" mentality when some of the signs are very new and some very old. Everyone seemed to agree that routine maintenance of signs and the ability to keep them looking nice was very important. Apparently there is a conflict in the way that the code language is written that clouds the issue of maintenance. Staff has interpreted this section of the code in a conservative manner meaning that the term "maintenance" is very limited. The maintenance issue overlaps to some degree with safety. Whatever the regulations are, they should take into account safety considerations. Everyone agreed that this issue regarding maintenance should be the first issue for the committee to work on. Other, more complicated issues, such as amortization, cap and replace, banking of sign credits, and electronic message boards were also discussed. One of the sign owners mentioned the fact that the city staff has taken a "conservative" position on outdoor advertising as reflected through the consultant that prepared the current ordinance adopted in 2002. He questioned whether the general populace had the same conservative viewpoint, or perhaps they may be neutral or supportive of outdoor advertising signs? Also discussed was the replacement of signs damaged by natural acts such as windstorms and tornadoes. The owner has no control over these events, yet the ordinance specifies that if a nonconforming sign is damaged to a certain percent by acts of God it cannot be replaced. Some of the owners felt that more signs are needed in our community, especially along 2<sup>nd</sup> Avenue, while others felt that replacing older signs with new technology is the best approach, even if it results in a net loss of billboard signage. Another consideration that should be important in analyzing these issues is the fact that soon 2<sup>nd</sup> Avenue will no longer be a state highway, but will become city owned. What implications or opportunities does this change hold for outdoor advertising?

In the end, it was agreed that not everyone would come to consensus on the complicated issues so it was decided to work on the maintenance issues first and take that amendment to Planning Commission then proceed on with the next issue. The group was instructed to prepare for discussion on the maintenance provisions at the next meeting.

# FOARE

THE FOUNDATION FOR OUTDOOR ADVERTISING RESEARCH AND EDUCATION

**EMBARGOED UNTIL 7/11/07**

**Contact:**

**FOARE**

Alexandra Walsh  
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**Tantala**

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[mtantala@tantala.com](mailto:mtantala@tantala.com)

## **Ground-breaking Studies Determine Accidents Not More Likely To Occur Because of Digital Billboards**

Washington D.C., July 11, 2007 --The combined results of two separate studies that examine crash causation and statistical data and driver performance in relation to digital billboards were released today. The research offers conclusive evidence that traffic accidents are no more likely to happen in the presence of digital billboards than in their absence.

The crash causation and statistical data study was conducted by Tantala Associates, a multi-disciplined, professional, consulting-engineering firm. The researchers conducted both a temporal and spatial analysis of the statistics of traffic and accident data near all seven existing digital billboards on Interstate routes in Cuyahoga County, Ohio, in periods of 18 months before and after the billboards were converted from conventional to digital.

"The analysis and statistics in Cuyahoga County demonstrate that digital billboards have no statistically significant relationship with the occurrence of accidents," said Albert M. Tantala, P.E. "Accidents are no more likely to occur near digital billboards than on highway sections without them."

The temporal analysis, or the incidence of traffic accidents near the digital billboards, was examined for an equal length of time before and after the billboards were converted to digital. The purpose was to establish if traffic accidents occurred more or less frequently with the presence of digital billboards.

The spatial analysis established statistical measures of the association, based on their locations, between two sets of data, in this case accidents and digital billboards. The results were analyzed for a variety of scenarios relating the



number of accidents to the number of billboards and the distance from a billboard that a driver is potentially within the influence of a billboard.

The human factors study was conducted by the Center for Automotive Safety Research at Virginia Tech's Transportation Institute (VTTI), one of the nation's premier research institutions on transportation and driving performance. This research concluded that driving performance measures in the presence of digital billboards are comparable with those associated with everyday driving. These performance measures included eyeglance patterns, speed maintenance and lane keeping.

"The digital billboards we studied can be considered safety-neutral in design and operations from a human factors perspective," according to Dr. Suzanne Lee of VTTI, the project's principal investigator. "The findings were consistent across several measures."

The VTTI study was conducted in Cleveland, Ohio. It followed the model of a previous study conducted by VTTI in 2004 which showed no measurable effects of conventional billboards on eyeglance patterns, speed maintenance or lane keeping. In the current study, 36 drivers, unaware of the purpose of the study, drove an instrumented vehicle on a 50-mile loop route along interstates and surface (non-interstate) streets in Cleveland. Along the route, participants encountered digital billboards, conventional billboards, comparison sites (those you might encounter in everyday driving, such as on-premise signs located at businesses) and baseline sites with no signs.

Eyeglance results showed no differences in the overall glance patterns or frequency of glances between the sites, but drivers did take longer glances in the direction of digital billboards. However, the mean glance length towards the digital billboards was less than one second, which is generally considered to be an acceptable amount of time for a glance away from the forward roadway.

Some participants returned for a nighttime session to explore the potential effects of the digital billboards at night. The findings were very similar to the daytime results.

Both studies were commissioned by the Foundation for Outdoor Advertising Research and Education (FOARE). "The industry and the public needed a targeted, empirical assessment to determine if digital billboards impact driver performance," said FOARE Chairman Paul Cook. "FOARE undertook these studies because no other government or private research exists that specifically examines a cause and effect link between outdoor digital billboards and driver behavior."

**About VTTI**

The Virginia Tech Transportation Institute is the largest university-level research center at Virginia Tech and is dedicated to the development and dissemination of advanced transportation knowledge. Research is focused on evaluation and deployment of advanced technology in areas of safety and human factors driving, among others. VTTI employs over 225 research faculty, staff and students and serves as the largest supporter of undergraduate and graduate students at Virginia Tech. The Institute is one of the country's three Federal Highway Administration Intelligent Transportation Systems research centers of excellence.

**About Tantala Associates**

Tantala Associates is a multi-disciplined, professional, consulting-engineering firm with an established practice for more than 40 years. The firm provides a unique union of research, consulting and design solutions, offering expertise in numerous practice areas encompassing civil engineering, transportation and risk management. The firm provides research and engineering to a diverse clientele spanning government, industry and academe.

**About FOARE**

The Foundation for Outdoor Advertising Research and Education is a 501(c)(3) charitable foundation. FOARE supports research and provides an educational forum and structure to assess new and emerging issues related to the outdoor advertising industry. The foundation also provides academic scholarships for students enrolled in undergraduate and graduate-level studies based on economic need, academic standing and field of study.

###

The executive summaries of these studies are attached. The full reports are available on VTTI's website at ([www.vtti.vt.edu](http://www.vtti.vt.edu)), Tantala Associates' website at [www.tantala.com](http://www.tantala.com), and OAAA's website at ([www.oaaa.org](http://www.oaaa.org)).

**ORDINANCE**  
**CITY OF SAINT PAUL, MINNESOTA**

Presented By \_\_\_\_\_

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An ordinance pursuant to Minn. Stat. § 462.355, Subd. 4 to preserve the status quo pending the completion and report of a study and possible action on the study including amending the City's zoning ordinances regulating advertising signs as they may pertain to retrofitting existing advertising signs with new "digital" or "electronic" panels

**THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:**

Section 1

**Statement of Legislative Intent:** The Council of the City of Saint Paul finds that it is once again necessary to preserve the status quo regarding the City's regulation of advertising signs which are more commonly referred to as "billboards." The Council finds that the outdoor advertising sign industry has begun to reface existing billboard panels and replaced existing billboard and billboard structures with new, electronic panels some of which include digital technology. Digital technology permits billboards to display an electronic image similar to a color television set. Digital technology further permits the image displayed on the electronic billboard to quickly change from one image to another.

The Council finds that a billboard that has been resurfaced or replaced with electronic panels utilizing digital technology does, or arguably may, substantially expand the impact of that billboard on surrounding lands and uses.

The Council finds that it is therefore necessary to study the impact of these new electronic billboards to determine whether there may be safety and aesthetic implications created by this type of billboard that would be detrimental to the public health, welfare and safety.

The Council notes that the City's zoning code presently regulates "flashing" signs by prohibiting them throughout the City and regulates "electronic message" signs by prohibiting them from residential zoning districts and permitting them only in certain business and industrial districts provided that the sign meets separation and display requirements. However, the Council finds that the City's existing definitions and regulations as set forth in the zoning code may need to be amended to codify its existing intent and purpose and also may be inadequate to regulate existing billboards retrofitted or replaced with the new digital technology. Therefore, the Council finds that a planning study is necessary to determine whether the City's existing zoning regulations are adequate to regulate advertising signs utilizing digital technology or whether it is necessary to adopt new regulations dealing with signs utilizing digital technology.

Accordingly, it is the desire of the Council of the City of Saint Paul to establish under this interim ordinance, a moratorium protecting the general health, welfare and safety of the public and preserving the status quo with respect to retrofitting existing billboards with new digital or electronic panels, pending the conclusion of a zoning study on the same and until such time as the study has been reported to the Council and the effective date of any Council action on any recommendations arising therefrom, by immediately prohibiting the issuance of any building or zoning permit necessary to so retrofit or replace any existing advertising or business sign within the boundaries of the City.

## Section 2

**Moratorium Imposed Moratorium Imposed:** on any parcel of land, lot, or part thereof within the boundaries of the City pending the completion of the said zoning study noted in Section 1 and action by the City Council on the said study, the issuance or approval of zoning and building permits for retrofitting or replacing any advertising sign or any new business sign with new digital or electronic technology of any type capable of creating electronic images on signs as discussed above, is prohibited until the expiration of twelve months or until such earlier time as the City Council has taken action on the recommendations contained in the said study.

## Section 3

**Moratorium, Effective Date:** The effective date of the moratorium enacted under this interim ordinance is deemed to be as of the effective date of an accompanying Resolution pertaining to the same subject.

## Section 4

**Effective Date of Interim Ordinance to Supersede and Discharge the Council's Resolution Pertaining to the Same Matter:** This interim ordinance shall take effect and be in force 30 days from and after its passage, approval and publication. Pending the effective date of this interim ordinance, applications regarding permits for retrofitting or replacing any advertising sign or any new business sign with new digital or electronic technology of any type capable of creating electronic images on signs, as discussed is ~~in~~ Section 1, within the boundaries of the City and regulated by this interim ordinance, shall be processed in conformance with the terms and conditions set forth in a companion Resolution. As of the effective date of this interim ordinance, the terms of the companion Resolution shall be discharged without additional action of this Council.

Adopted by Council: Date 2-28-2007

Adoption Certified by Council Secretary

By: \_\_\_\_\_

Approved by Mayor: Date \_\_\_\_\_

By: \_\_\_\_\_

|                   | Yeas | Nays | Absent |
|-------------------|------|------|--------|
| <i>Benanav</i>    |      |      |        |
| <i>Bostrom</i>    |      |      |        |
| <i>Harris</i>     |      |      |        |
| <i>Helgen</i>     |      |      |        |
| <i>Lantry</i>     |      |      |        |
| <i>Montgomery</i> |      |      |        |
| <i>Thune</i>      |      |      |        |
|                   | 7    | 0    | 0      |